

# COUNCIL Business Paper



**LISMORE**  
*City Council*

**February 23, 1999**



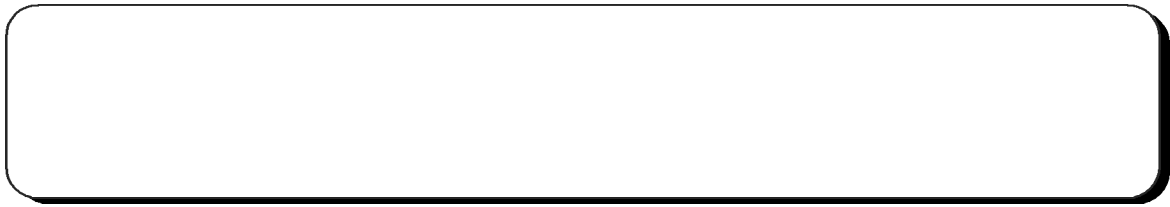
## NOTICE OF COUNCIL MEETING

An ORDINARY MEETING of LISMORE CITY COUNCIL will be held at the MAROM CREEK COMMUNITY HALL on TUESDAY, FEBRUARY 23, 1999, at 6.30pm and members of Council are requested to attend.

Residents are requested to attend at 6.00pm to meet residents informally.

(Ken Gainger)  
GENERAL MANAGER

February 16, 1999



PUBLIC ACCESS SESSION:

PAGE NO.

Lindsay Walker re Notice of Motion (S94 Levies)

Lindsay Walker re Report - Provision of Open Space Within DA98/58  
Proposing the Creation of 27 Village Allotments

PUBLIC QUESTION TIME:

OPENING OF MEETING AND PRAYER (MAYOR):

APOLOGIES AND LEAVE OF ABSENCE

CONFIRMATION OF MINUTES - Ordinary Meeting 2/2/99

CONDOLENCES

DISCLOSURE OF INTEREST

MAYORAL MINUTES

1

NOTICES OF RESCISSION

NOTICES OF MOTION

2 - 7

SUSPENSION OF STANDING ORDERS

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

REPORTS

8 - 105

COMMITTEE RECOMMENDATIONS

DOCUMENTS FOR SIGNING AND SEALING

106

QUESTIONS WITHOUT NOTICE

CONFIDENTIAL MATTERS - COMMITTEE OF THE WHOLE



REPORTS:

PAGE NO.

Provision of Open Space Within DA98/58 Proposing the Creation of 27 Village Allotments	8 - 12
Nimbin Mardi Grass - Request for Assistance	13 - 20
Draft LEP Amendment - Items Deferred from Amendment No. 51	21 - 26
DA98/165 Lismore Workers Heights Bowling Club Carpark	27 - 41
LEP Amendment No. 45 - Heritage	42 - 47
S94 Plan Review Update	48 - 56
NOROC - 3 Year Strategic Plan	57 - 58
Lismore Airport - New Terminal, Taxiway and Carpark	59 - 61
DCP 28 - Subdivisions	62 - 68
Draft Acid Sulfate Soils DCP & LEP	69 - 70
Drug Usage and Disposal	71 - 75
Browns Creek Drain	76 - 80
Replacement of Council Plant V172 - Garbage Collection Truck	81 - 84
Indigenous Mentor Program	85 - 86
Interaction Between Councillors and Staff	87 - 91
Councillor Support Policy	92 - 95
Council Meeting Schedule	96
Airport Advisory Committee Management Plan	97
Wyrallah Road Waste Facility	98 - 99
Quarterly Review - Management Plan 1998/99	100
December 1998 Quarterly Budget Review Statement	101 - 104
Investments Held by Council as at 31/1/99	105

MAYORAL MINUTE

Councillors will be aware that Council initiated action in regard to Y2K compliance some time ago, and that it is well-advanced in addressing the potential problems that the Y2K bug may cause for a wide range of Council activities. The staff are to be congratulated on their thoroughness in handling this issue.

Council's preparedness for its own activities is, however, only one issue. Another is that of Council's leadership role on this issue in regard to our community.

According to our project team's monthly progress report for January, whilst some better assistance is being provided by authorities such as the Commonwealth Department of Transport, and the situation is 'much healthier than 6 months ago', it is not clear that industry and Lismore businesses demonstrate a great deal of awareness on this issue. The same problem exists in regard to residents in our community.

There is no hard data on just what the impacts of the Y2K bug might be and estimates of what might happen vary significantly. For example, if the power supply fails, if banking operations fail and/or if there are failures in food manufacturing industries, just to mention a few, there is the potential for social disturbance.

It appears that the local emergency response services have also been focussing on whether or not their equipment is Y2K compliant and that, at this stage, there has been no consideration of contingency plans to put in place in the event of failures such as those mentioned above.

That aside, there are probably many actions which residents can take themselves to prepare for any eventuality where there may be a shortage of food, water or power. To do this, they need to understand the possibilities and to put contingency plans in action.

There are people available in the community who have a good understanding of the possibilities and I believe it is in the community's interests for Councillors, Council staff and emergency services to be briefed as fully as possible about the potentialities. To that end, I suggest that Council takes steps to organise a workshop for this group of people as the first action in addressing the broader issue of community preparedness.

Recommendation:

That Council organise a workshop for Councillors, appropriate Council staff and emergency services workers as soon as possible.

STAFF COMMENT BY - Group Manager-Corporate & Community Services

It is noted that a Millennium Bug information seminar is being held at the Lismore Workers Club on Thursday evening at 7.30pm. The seminar is to discuss how the millennium bug will affect individuals, business, community and local government.

CITY OF LISMORE

NOTICE OF MOTION

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

**That Council approve the use of \$1,000 from my part of the Councillor Development Fund for use toward the proposed trip to China, being less than 50% of the total cost.**

COUNCILLOR G A Wilson

DATE February 2, 1999

STAFF COMMENT BY: Group Manager-Corporate & Community Services

Council's Expenses & Facilities Policy relating to Interstate and Overseas Travel was developed following strong recommendations from ICAC. The thrust of the policy is that plans for any such travel should be transparent to the community and have an identifiable benefit to the local area through Council activity.

The policy states that proposals for overseas travel by Councillors on Council business should be documented in the annual Management Plan, thus allowing community input into the proposed visit. No proposal for overseas travel was included in the 1998/99 Management Plan.

Notwithstanding the above, the policy does provide that where exceptional cases arise and travel has to be undertaken at short notice, the proposal should be put to Council for decision. In accordance with the Policy, for Council to consider this proposal it *must determine the objectives for undertaking the trip including an explanation of what community benefits will accrue from the exercise.* (A copy of the relevant part of Council's Expenses and Facilities Policy is attached for information.)

Council's 1998/99 Management Plan/Budget provides for Councillors' professional development, being an "allowance for accommodation, travelling, registrations, etc. associated with attending conferences and workshops".

In considering this request, Council should be mindful of the precedent it may create, with other Councillors and staff who are also participating in this trip.

There are sufficient funds remaining within Councillor Wilson's Councillors' Professional Development account should Council approve this request.

**Note: The total estimated cost of the trip is \$2,625 + personal costs; amount requested to be funded by Council \$1,000.**

(99-1640: S731)

## CITY OF LISMORE

### NOTICE OF MOTION

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

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

COUNCILLOR D J Roberts

DATE 8/2/99

#### STAFF COMMENT BY MANAGER PARKS & RESERVES

Restoration of the old Jubilee Fountain is a commendable project. Preservation of items of heritage which reflect on our past should be a high priority to Council.

However, in this particular instance I am not sure that Spinks Park is a suitable location because of the frequency for inappropriate behaviour and vandalism.

Notwithstanding the location the following would be required to restore it successfully:

1. Research files/records/photographs etc to determine how it actually looked when it was originally constructed.
2. Reconstruction of the monument to match the original. Also the plumbing infrastructure would need to be upgraded/re-installed.
3. Connection of the fountain to the town water supply.
4. On-going maintenance to repair wear and tear and vandalism etc. this could amount to a sizeable amount for such an item.

It should be noted that until such time as the research is completed to determine how it originally looked it is not possible to put an accurate figure on the restoration. It could cost anything between \$5,000 - \$10,000.

The ongoing maintenance of such an item is likely to cost a significant amount each year. For example, items such as these do tend to attract abnormally high attention from vandals who can regularly inflict damage to them which costs large sums of money to repair. A good parallel is the rotunda in Spinks Park.

For this reason the location is a very important consideration and identifying a spot where the fountain would be least likely to be attacked.

Should Council decide to restore the fountain then it should also allocate an additional amount of money to maintain it each year. Otherwise this will just impact on an already overburdened budget and result in less service delivery to other activities such as grass cutting, etc. (99-1938: P6816)

CITY OF LISMORE

NOTICE OF MOTION

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

**Council place a moratorium on collection of Section 94 and 64 charges relating to residential subdivision but with the following exemptions:**

- **Sewerage, Aquatic and Leisure Centre and Bushfire Services.**

**Note:**

The justification for the resolution is to stimulate residential subdivision which is currently at a standstill. While charges can be justified during high growth periods they cannot be justified in low or negative growth periods.

In these low/negative growth periods, administration costs continue without any income. New subdivisions have the potential to bring in extra rate revenue with little cost to Council for at least 15 years - new settlers generate growth and jobs.

COUNCILLOR I R Gates

DATE February 9, 1999

STAFF COMMENT BY: Expenditure Accountant

Council's policy in relation to Section 94 and 64 works is that the works are only undertaken if the funding is available. Consequently, if the funds were not collected because of a 'moratorium', the works would not proceed.

In essence, all a moratorium does is defer the inevitable.

What is supported and proposed instead of a moratorium is that the Section 94 Plans be reviewed with the objective of a significant reduction in the level of contributions required from developers.

It should be noted that while a reduction in the cost to develop residential land may prove an incentive, it is uncertain that this would automatically stimulate residential growth unless a number of economic factors were present such as:

- a) reduced sale price of land,
- b) increased work opportunities, and
- c) access and provision to community facilities.



STAFF COMMENT BY: Group Manager-Planning & Development

The initiative to stimulate investment is welcome, however, the specific proposal by Councillor Gates needs to be considered in the context of Council's overall community infrastructure needs.

The proposal only targets residential subdivision and on a limited basis, ie exempting the collection of levies for certain facilities and services – Aquatic & Leisure Centre, Sewerage and Bushfire Services.

I don't believe we can legally apply only 'part' of Section 94 Plan levies to certain forms of development. The Plan is not structured in this way. The last thing we need is a legal challenge, potentially from a developer who has proceeded with a development and paid all levies and charges, over the integrity of such an approach. We might see Council placed in a position where developers are asking for refunds for paid contributions we have already expended in accordance with the Plan.

An holistic approach should be used to provide incentives and stimulate investment as is recommend in the report to Council in this Business Paper on Section 94 contributions. In this way all development industry sectors are targeted, not only one particular group.

STAFF COMMENT BY: Group Manager-Business & Enterprise

I concur with the comments of the Expenditure Accountant with regard to a need to review the S94 and S64 Plans.

Steps must be taken by Council to ensure that quality residential land is developed to meet existing demand.

## CITY OF LISMORE

### NOTICE OF MOTION

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

**Council request the Steering Committee for the Joint Venture Aquatic Facility to take note of the market research findings and other community input which indicated:**

- 1 A strong preference for outdoor facilities.**
- 2 A second public swimming facility.**
- 3 No Council involvement in aerobics, gymnasium, child minding or function room facilities.**

**Note:**

The intent of this motion is to give ALL Councillors an opportunity to record their preferences for the form of the Joint Venture Facility.

COUNCILLOR I R Gates

DATE February 10, 1999

**STAFF COMMENT BY: Manager-Community Services**

**1 A strong preference for outdoor facilities**

This is not entirely true. Page 4 of the report by A C Nielsen, headed 'Facilities' states that: "There is support for the main pool to be indoor and heated for year-round use, but it is preferred that the recreation pool should be in the fresh air with shade for hot summer days. A 'muggy' atmosphere would be unacceptable. Possibly these requirements could be satisfied with a creative integration of indoor and outdoor."

There is certainly a need for outdoor recreation areas associated with the pool, e.g. outdoor, grass areas where families can sit, sunbake, enjoy a picnic (refer page 4, 'Facilities'). Given that the design is conceptual there is now opportunity to take on board these suggestions in the final design of the Aquatic Facility.

**2 A second public swimming facility**

It is important to note that the Focus Groups were prefaced on the fact that the Lake Pool would remain and that the 3 alternatives for the replacement of the existing Memorial Baths were the joint venture with SCU and outdoor facilities at either Goonellabah or the CBD (probably the existing Baths site). Considering all five aspects of the market research (focus groups, aquatic hotline, static displays and written submissions) there is little demand for a second public swimming facility. There is certainly a degree of nostalgia for the retention of the Memorial Baths (refer page 10 'Memorial Baths'), however, there is also an awareness that the Baths have reached their useful life.

There are a number of critical issues that are worth noting:

- It is simply not affordable for Council to provide both the joint venture proposal and an outdoor 50 metre pool elsewhere.
- There is an additional 38% water space provided with the joint venture proposal as opposed to the Baths.
- There is greater flexibility of water space with the joint venture.
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**3 Council involvement in aerobics, gymnasium, child minding or function room facilities**

It is accurate to suggest that there is little demand for the dry facilities such as gymnasium, aerobics/program room, function room and creche (refer page 14 of report). This creates somewhat of a dilemma for us in that it is the 'dry facilities' which subsidise the 'wet areas'. Not only are these facilities a necessary adjunct for financial viability but also service the community health and fitness market.

If the public were aware of the viability link they may reconsider their view on these components of the overall aquatic facility. This may certainly be the case as market research indicated that the community's preference for the joint venture was based on financial performance which in turn is dependent on the 'dry facilities'.

(99-2033: S719)

Subject/File No: PROVISION OF OPEN SPACE WITHIN DEVELOPMENT APPLICATION NO. 98/58 - PROPOSING THE CREATION OF 27 VILLAGE ALLOTMENTS

Prepared By: Development Assessment Planner, Subdivision Unit - Damian Chapelle

Reason: Council to consider the provision of financial assistance for open space by land acquisition

Objective: To obtain Council's concurrence in relation to the attached recommendation.

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## CONTENT

### Introduction:

Council's Subdivision Unit is in receipt of Development Application 98/58 lodged by Walker and Newton to create twenty-seven (27) additional lots within the village of Clunes. The subject site is located west of the Clunes Primary School with frontage to James Gibson Road and Remnant Drive. Further, the land is identified in Council's Development Control Plan No. 21 - Village of Clunes for future residential development, which is consistent with the site's 2(v) zoning.

The purpose of this report is to provide Council with current estimated costs for the provision of open space to add to the existing Clunes Public School field as identified within Development Control Plan No.21 and Council's Section 94 Plan. Further, Council's Subdivision Unit is seeking Council's commitment in the provision of open space to enable the assessment of the subject Development Application to provide for open space within the subdivision design.

Council has previously resolved on July 21, 1992 to contribute \$10,000 towards the construction of the existing playing field on the Clunes Primary School. These funds were used to develop the land to its present standard, however, they do not give Council a controlling interest in the property. The Department of Education and the Clunes Public School currently make the playing field available to the community outside school hours. The present size of the oval makes it unsuitable for junior or senior sport (ie cricket, soccer etc).

The focus of this report is on the issue of open space for the proposed development. A further report will be forwarded to Council upon completion of the assessment by Council's Planning and Development Group which shall discuss the development in its entirety.

### Background:

The Development Application currently being assessed by Council's Subdivision Unit comprises stage four (4) in the subdivision of the subject property. Council has previously approved three (3) stages for the creation of twelve (12) lots fronting James Gibson Road and Remnant Drive.

Negotiations held with the applicant in the assessment of previous Development Applications focussed on the proposed density of the subdivision, effluent disposal, kerb and guttering and the corresponding provision of open space for the Clunes community. The provision of open space was directly related to the density of the development. This position was reflected in amendments to Development Control Plan No. 21 requiring open space to be provided should the density of the development necessitate a reticulated sewage system.

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The applicant has proposed within the current Development Application an individual on-site effluent disposal management system with a lower density (2000m<sup>2</sup> minimum lot size) than that which could be achieved with a reticulated sewer system. The density is however higher than that adopted in the assessment of previous Development Application for the subject land.

Council resolved on March 1, 1994 to acquire land adjoining Clunes Primary School (including an area of remnant rainforest) to be dedicated to Council in lieu of Section 94 contributions for community facilities and local open space. As a result of Council's resolution of March 1, 1994 Council's Strategic Services prepared a report to Council on April 5, 1994 to amend Development Control Plan No. 21 to include the subject land for the purpose of open space. The report identified "*land of approximately 3000 square metres would be required with the estimated rural land value of the area at \$20,000 with construction costs including filling, consolidation and turfing of the area of approximately \$25,000*". Council resolved to exhibit the proposed amendment and two submissions were received – one from the Department of Education and the other from Walker & Newton.

Following the exhibition period a report to Council detailed "*that the DCP for Clunes Village should be amended to include a clause specifying that the area nominated for open space, immediately adjacent to the existing playing field, will be required for dedication, if sewerage of the village permits higher lot densities than would otherwise be achieved at present*". Council resolved to include a clause within the DCP for Village of Clunes stating that "*the additional area nominated for open space, immediately adjacent to school playing field would be required for dedication only if adequate subdivision and population growth occurs in the area*".

Information:

The applicant has submitted a land valuation, prepared by Ennew and Hunt Valuers, for acquisition of the area needed for the school playing field extension. The valuation of \$125,000 is based on a site area of approximately 10,406 square metres (\$12.00 per square metre). With the revised plan for the provision of a junior size oval including landscaped batters, it is considered that approximately 6,600 square metres would be sufficient area hence the valuation could be reduced on a pro rata basis to \$79,200. Council's Parks and Recreation Manager has provided comments concerning embellishment costs which total \$780,000 for the provision of fill and its compaction.

Council has written on a number of occasions to the Department of Education concerning management of the area identified for the proposed future expansion of the open space. The Department has not replied to Council's letters. However, the Department of Education detailed in their submission to Council's previous amendment of the Clunes DCP in 1994 "*that any extension to the playing field which would result in a steeper embankment than already exists is unacceptable on safety grounds both from the point of view of safety of school students and that of adjoining property owners whose property could be at risk from possible collapse of the embankment*".

Other Group Comments:

**Corporate and Community Services:**

Council's Recreation Planner has viewed the proposal and commented that whilst it is desirable to extend the existing school oval to the dimensions of a junior sports field, upon consideration of

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additional information provided below, it appears this proposal is unlikely to ever be viable based on current and future available Council funds:

- Land acquisition and field development costs exceed current and expected future Council funds;
- Lack of commitment from the Dept. of Education to contribute to the purchase and establishment costs and safety and liability concerns regarding the proposal; and
- More detailed engineering assessment demonstrates that the removal of significant vegetation and an undesirable retaining batter is required to extend the existing field to suitable dimensions.

Notwithstanding the above, the Clunes village requires access to at least a junior sized sports field and the current proposal should be assessed against any other more feasible alternatives. Given the topography and land use patterns of Clunes, Council may have to resolve that Sam Trimble Oval is the only viable sports field to serve the Clunes community.

**Parks and Recreation Services:**

I refer to the matter of the King subdivision and the possibility of acquiring some of the land adjacent to the Clunes School oval to extend it to a full sized oval.

Walker & Newton who are acting on behalf of the developer have provided drawings which show the extent of the filling and toe of the required embankment as well as calculations which confirm the need for approx 26,000 tonnes of fill and subsequent compaction.

Using a conservative estimate of \$30 per cubic metre for this part of the works the cost to fill, compact and level the site would be \$780,000 before any turfing, drainage and planting was carried out. This is a very large sum of money, which Council is most unlikely to be able to collect from developers in the future or raise itself.

In addition the extension of the embankment will impact severely on the remnant rainforest vegetation which Council staff have already identified as worthy for retention. Thus the extension of the oval actually conflicts with another objective.

In conclusion, it is hard to justify the concept of extending the oval under these circumstances particularly when one considers future population projections and the time frame it would take to see the finances raised and the project completed. In view of recent community acquisitions in Clunes it probably is not feasible to pursue this project.

**Section 94 Committee**

The Section 94 Committee considered this matter at it meeting on February 2, 1999 and resolved to recommend to Council the following:

1. The proposal to extend the Clunes School Oval be abandoned and the project be deleted from the current Section 94 Plan.
2. The developer (DA 98/58) be requested to provide an area of public reserve around the existing remnant rainforest, which is of sufficient area to preserve and protect existing vegetation, and that this land be dedicated to Council at no cost.
3. Council give consideration to the Sam Trimble Oval being regarded as the major full size sports field servicing Clunes and that funding for the further development of this facility be considered in the Section 94 Plan review.

### Expenditure Accountant

The Open Space Section 94 Plan provides for the acquisition and development of this facility at a cost of \$40,000. Current estimates suggest that a cost of \$879,000 is more accurate.

Due to the significant increase in the acquisition and development costs, and, the likelihood that collections from developer levies will never be enough to finance this project, it is suggested that the project be deleted from the S94 Plan.

At the same time, it may be appropriate to amend the S94 Plan to provide for some open space embellishment of the Clunes Community Centre site which was recently purchased by Council and within close proximity. While it is acknowledged that this would be passive rather than active open space, the fact that we own the land and there is potential for a children's playground etc. to be developed, makes it a worthwhile option to be considered.

In relation to the proposal to provide for a small park, which includes the retention of the remnant rainforest, there will be an ongoing maintenance obligation which must be considered. While acknowledging that the remnant rainforest has a 'community value', it is also recognised that the maintenance of existing facilities are already stretching available resources to the limit.

### Public Submissions

During the advertising period for the current Development Application, Council received three (3) submissions to the proposal. One objection raised the issue of the lack of open space being provided and the proposal's non-compliance with previous approvals and the Clunes DCP.

Previous Development Applications determined by Council have also received comments concerning the provision of additional area to create a full size oval in Clunes. The involvement of Clunes residents in the assessment process was the catalyst for the amendments to the Clunes DCP and Council's Section 94 Plan.

Council's Subdivision Unit has notified all residents who submitted objections to the current Development Application, the Clunes Progress Association and the Clunes Old School Site Association of this report and the availability of Public Access at the Council meeting.

### Options

Council's Subdivision Unit has considered three (3) options taking into account comments received from Council Departments, the Clunes community and the applicant. The options are as follows:

1. The acquisition of land for the creation of a full size **junior** sport field.

*Comments:* This option will provide a full size junior oval but at an acquisition cost of approximately \$79,000 (\$59,000 greater than forecasted \$20,000 in the Section 94 Plan). It will also require removal of the existing, well established, landscaped buffer and more than likely most of the remnant rainforest area due to the substantial batters (3-4 metres high) required to accommodate the field extension. Council's Parks and Reserves Manager has provided an estimate of the embellishment costs - likely to be in excess of \$800,000.

2. Provision of a small park utilising the natural topography located within the proposed subdivision design.

*Comments:* The provision of a small park within the subdivision design will not achieve any change to the size of the playing field but will guarantee the retention of the remnant rainforest within a small local 'park'. This park could also provide a valuable pedestrian link to the playing field from the new estate.

3. No open space provided in Development Application No. 98/65 (current situation)

*Comments:* The local community does not endorse the provision of no open space. Submissions received to both the previous and the current DA's contain support for an extension to the current school playing field. Clearly, there is an expectation that developer contributions identified in the existing Section 94 Plan will be used for this purpose.

### Conclusion

The issue of acquiring land for the extension of the school oval needs to be resolved before the current DA can be determined. What is now evident is that the \$40,000 figure in the Section 94 Plan for acquisition and embellishment of the required land (for a junior sports field) is going to fall well short of the mark. A more realistic estimate of well over \$800,000 is not a viable or achievable proposition.

### Recommendation (PLA10)

- 1 That Council resolve to amend Development Control Plan No.21 - Village of Clunes and the Section 94 Plan to delete the requirement to extend the Clunes Public School oval.
- 2 Council require the applicant to dedicate land (at no cost to Council) which encompasses the remnant rainforest and provides a link to the Clunes Public School.



Subject/File No: NIMBIN MARDI GRASS - REQUEST FOR ASSISTANCE  
(S74)

Prepared By: Manager Development Assessment - Warren Rackham

Reason: Request for Council assistance with this annual festival.

Objective: To ascertain Council's direction and involvement in the annual event

Management Plan Activity: Development Assessment

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Background:

The annually held Nimbin Mardi Grass creates a number of challenges for Council as it considers various forms of interactive assistance to this controversial event. Views and attitudes on the event and support for it varies widely, and range from total support, to total opposition and demand for police / legal action.

From Council's perspective, it has been almost impossible to obtain timely lodgement of applications for relevant approvals from the event organisers for a number of reasons, including:

- i) There has been (in the past) no formal group or persons who have taken **accountable responsibility** for organising the event;
- ii) there is a resistance to compliance with rules, codes, procedures and proforma, and a general distrust of Council,
- iii) often there is no organised advance knowledge of just where the events will occur, and hence rational organisation of same,
- iv) the event is promoted as a "protest event" and is thus perceived as not being subject to orthodox compliance with regulated procedures,
- v) there are usually no funds to run the event so the likelihood of organisers being in a position to meet approval requirements/conditions is low.

It has also been made clear on many occasions that irrespective of whether or not the 'organisers' need to seek relevant approvals and comply with formal procedures, the event **will** still occur. This basic fact necessitates Council's involvement to try and achieve a better outcome than has been achieved to date.

In previous years there has always been a problem, in spite of early requests by Council, for timely applications to be lodged. Situations have also arisen where lodgement of applications has been withheld because Council has "failed to assist with rubbish collection and removal". Council's involvement can range from the extremes of "turning a blind eye" to activities occurring without appropriate approvals, to attempting full legal enforcement and prosecutions.

Irrespective of what part Council plays in this event, there will no doubt be criticism from the community. In recent years staff have worked with the organisers in an effort to minimise the impact of the event on the local community. This has had mixed success.

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### **Current Action**

Arising from past representations to the NSW Ombudsman from some Nimbin organisations, action to draw together all players was commenced in January this year by the Richmond Local Area Police Command, with two (2) meetings involving Council staff already being held. At these meetings it has been made very clear that the Mardi Grass **will** be held irrespective of Council support, and that there needs to be a spirit of cooperation from **all** parties in order to facilitate a better operation.

Mardi Grass organisers present at one meeting (Mr Graeme Dunstan and Mr Michael Balderstone) advised that the Nimbin HEMP Embassy is to become an incorporated association - this should assist towards having a formal group "responsible" for required applications and in terms of public liability.

The organising committee was requested to schedule exactly what works are required, and where the various events were proposed to be held, in order for relevant applications to be discussed and subsequently lodged in a timely fashion (preferably by March 1, 1999). If events are held on public land or public roads, development applications are not required, however, road closure/Section 68 application as relevant will still be necessary.

Mr Graeme Dunstan, the 1999 Mardi Grass Controller, has now forwarded to Council a 6 page detailed submission which clearly states the Hemp Embassy's position, and sets out the various requests now made of Council (See Annexure 1).

### **A condensed list of the requests of Council is:**

#### **Roads and Parking**

1. Close Sibley Street from 2pm Friday April 30, 1999 through to 11.30pm Sunday May 2, 1999, together with barricades and signs.
2. Council assist with identification and preparation of a safe pull-over area south of Nimbin (tourist information purposes).
3. Placement of a temporary 25kph speed restriction on the Lismore - Murwillumbah road at the approaches to check points.
4. Council to secure all-weather parking areas off Sibley and Cecil Streets, supply "no parking" signs, and mark off areas.
5. Mark off "no parking" on either side of Cullen Street from the speed bump to the south, to the pedestrian crossing at the Nimbin School entrance to the north, from 8am Saturday May 1, 1999 through to 11pm Sunday May 2, 1999.

#### **Camping**

6. Council to take responsibility for managing camping during the event.

#### **Toilet and Waste Management**

7. Council complete the new toilet block before the Mardi Grass, or supply temporary toilets for the estimated crowd.
8. Council to take responsibility for servicing the waste management for the whole event.
9. Assist and advise Mardi Grass in regard to waste reduction.

#### **Street Lighting**

10. Support the organising group in enhancing street lighting in the village during the event.
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These items obviously have varied cost factors and resource implications and are separately commented upon by relevant officers of Council in this report.

Council is now requested to consider its involvement in the event and what level of assistance it is prepared to provide.

Council should also consider what action or actions might be taken (in terms of prosecution - legal enforcement) for any part of the event which occurs without appropriate approvals in place.

#### Expenditure Accountant's Comments

From a financial perspective, no funding has been specifically provided for this purpose in the budget. No estimate of likely costs have been prepared and there is uncertainty as to whether some of the requested items can be provided and the level of support required as the event is to go for two days (Friday 2.00pm to Sunday 11.30am). In light of Council's projected deficit for 1998/99, any financial support will only serve to worsen this situation.

It is suggested that the event be supported 'in kind' (eg advice, signage, wastebins (normally used for Council purposes)), in line with other events such as the Lismore Folk Festival and Visions of Nimbin.

#### Other Group Comments

##### Tourism Director - Andrea Roberts

The Nimbin Mardi Grass is a significant tourism event for Lismore and the Northern Rivers region. It reflects the diversity of the local community and the cutting edge issues for which this region has a global reputation.

Crowds (anecdotally estimated in the vicinity of 10000) are drawn to the event through a mix of heavy (free!) media exposure and word-of-mouth promotion, which would be the envy of many other event organisers in this country. In 1997, the Mardi Grass was researched for the development of the 'Lismore Events Strategy'. The data reveals that 85% of people heard about the event through word-of-mouth, with print and electronic media making up the remainder of the promotional mix. The Lismore Visitor and Heritage Centre prepares its services each year for the influx of enquiries received in the lead-up to the event. Last year the office contacted local bus services to shuttle visitors to and from Lismore with an aim to increase benefits for the city's accommodation, retail and dining facilities during the event.

In terms of tourism visitation, the research reveals that some 30% of festival-goers were from South East Queensland; 5.5% were visitors from elsewhere in Australia (Sydney, Mid North Coast etc.); and almost 7% were from overseas. The impact for this on the accommodation sector can be seen in the data which revealed that 36% of people were staying away from home; most of them being away for 1 or 2 nights; 6% using hotel/motel, camping or backpacker facilities; with 10% spending \$50 or more per night on accommodation.

An overwhelming 73% of respondents most enjoyed the atmosphere of the event and 30% had been to the event before - which indicates a high level of satisfaction and return visitation; 71% were sure to return to the event again; 32% said that they would extend their time in Nimbin outside of the

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event. It is also possible to draw from this that the festival adds to Nimbin's appeal as a tourist destination.

The survey revealed some areas for improvement which included parking and the quality of amenities.

This data reveals that through effective site and event management the Mardi Grass should continue to draw large crowds who will be entertained, satisfied, exposed to a cultural experience that they cannot access at home and motivated to return to this region.

This is Nimbin - home of the alternative lifestyle. Sometimes confronting but, according to 75% of the attendants at the 1997 event, the Mardi Grass is indeed 'entertaining'.

Waste Strategy Officer - Gordon Fraser-Quick

Council should consider a very active involvement in and provide encouragement for public events. The social, cultural and financial heartbeat of our City is assisted by public events. If Council is seen to be obstructionist or unreasonably negative towards such events we may not be effectively servicing the needs of our residents or ratepayers.

As part of the Reusabowl Project, Council was involved in the development of a Draft Policy on Environment Friendlier Public Events. The Policy was developed to address many of the issues that are raised each year when major public events are planned or proposed.

I strongly encourage Council to consider the issue of support for public events in an holistic sense and not just on the basis of an individual event.

Council should consider establishing a separate budget for provision of support and services to public events throughout the Council area.

Without an holistic "all of Council" approach I am reluctant to make a major commitment of resources from the Waste Minimisation budget to individual events. Further, without a coordinated approach, those sections of Council who may be perceived as less than helpful will give an overall negative impression of Council despite the good efforts and intentions of those sections who are helpful. The sections who are helpful become the target of requests for more assistance in areas beyond their jurisdiction, cannot deliver that additional assistance and thus they too become tagged as "obstructionist."

I strongly encourage Council to consider a complete Policy on Public Events. Such a policy has been prepared in draft form, and will be submitted for Council's consideration at a later date.

Manager - Roads and Infrastructure / Traffic and Law Enforcement Co-ordinator - Bill MacDonald

The following comments are made on issues relative to the City Works Group:

- ◆ Road closures and parking restrictions have been discussed with and sanctioned by Sgt Neville Plush of Nimbin Police, excluding the prohibition of parking on either side of Cullen Street between the existing pedestrian crossing and the raised pedestrian platform. All closure and parking restrictions will be submitted to the Traffic Advisory Committee for comment of February 17, 1999.
- ◆ A safe pull-off area has been identified south of Nimbin and will only require slashing prior to the event.

- ◆ A temporary 25kph speed restriction on Nimbin Road, in the vicinity of the information bay is not considered warranted. Warning signs such as 'slow down' or 'reduce speed' would be more appropriate and could be sourced from existing stock.
- ◆ SIGNAGE - Temporary 'No Parking' signs can be made relatively cheaply by Council's sign shop. Barricades and 'Road Closed' signs can be supplied from Council's Depot but may require a bond.
- ◆ It would be difficult for Council to support the use of special street lighting that is not in accordance with Australian Standards.
- ◆ Whilst there are obvious benefits in securing additional off-street parking areas, Council does not have the resources to take over this function, which presumably would be mostly on private land.
- ◆ Council's Law Enforcement Officers attended the Mardi Grass for two (2) hours on each day last year, however, additional funds should be allocated if they are required to attend in future.

Manager Waste Services - Kieran Wade

- ◆ Lismore Waste Services would have to purchase a minimum of 50 Mobile Garbage Bins @ \$55.00 each, totalling \$2,750.00.
- ◆ Say the life of a MGB is five (5) years. Costs per year \$550.00.
- ◆ For Council to deliver, return and wash out, 8 hours @ \$19.45/hour, totalling \$156.32.
- ◆ Hire costs for Vehicle 410 - \$4.50/hour @ 8 hours, \$36.00.
- ◆ Cost to Council (if staff available on the weekend) hire of truck plus driver \$80/hour, say 4 hours/day for three (3) days minimum \$960.00.

**Total cost to Council for the event totalling \$1702.00.**

**There are no funds allocated in Council's 1999/2000 budget**

Quote from Richmond Waste to deliver, empty, remove and including disposal costs for industrial bins is as follows:

1. 8 x 4m<sup>3</sup> Bins = \$1180.00
2. 12 x 4m<sup>3</sup> Bins = \$1770.00
3. 16 x 4m<sup>3</sup> Bins = \$2360.00

Conclusion: It is more cost efficient to engage Richmond Waste to undertake removal and disposal. Normally this cost is the obligation of the organiser.

Environmental Health Officer and Building Surveyor - Peter Cotterill

The Building and Regulation Section has been indirectly involved with the Nimbin Mardi Grass and its running for a number of years. This involvement has centred around attempting to ensure that the relevant facilities for such an event of a public nature are catered for by the organisers and the impact of the event on local residents is minimised as far as possible.

As stated elsewhere in this report, the "organisation" of the Mardi Grass has previously been somewhat disjointed. The Building and Regulation Section has been involved in numerous and lengthy discussions with "both sides of the fence" with regard to the Mardi Grass.

During this involvement, the following factors have surfaced as the main sources of inconvenience/annoyance/anger for a section of the Nimbin community.

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- a) The lack of toilet facilities provided for such a large crowd and the subsequent behavioural problems,
- b) the lack of camping facilities with suitable ablution facilities provided for the number of people who stay,
- c) the lack of organised carparking and/or traffic control causing traffic jams and problems with people parking on footpaths across driveways etc,
- d) the lack of facilities for the collection and removal of rubbish during the event,
- e) noise problems especially associated with bongo drums during all hours of the night.

These are the main items which come under the responsibility or powers of Council and obviously do not include some areas of concern raised by residents in relation to policing matters.

It has been my direct experience that the event will continue to be held annually in Nimbin with or without Council's consent and/or cooperation. The organisers in previous years have been told by Council that no approval or cooperation will be granted, however, the event has gone ahead and continued to have a negative impact on some of the residents in Nimbin.

It would appear therefore that one solution to the current situation is for Council to become proactively involved, not so much in the organisation for the Mardi Grass itself, but in providing facilities to the township of Nimbin to ensure that the impact on the residents of Nimbin is minimised during the holding of the event. This could include some of the items previously outlined in this report. The areas where Council's involvement to minimise the impact on the residents of Nimbin would be the most practical and effective would be the following:

1. organising (in cooperation with Nimbin police), no standing areas, limited carparking areas, road closures, safe pull-over areas and associated traffic control signage, to help ensure the smooth flow of traffic through the township during the event.
2. Providing or assist in providing temporary toilet facilities in strategic locations around the village for use by visitors.
3. Provision of additional waste disposal facilities within the village and a means of collecting and emptying such during the festival.
4. Assisting with the consideration of appropriate camping facilities on either public or private properties.
5. Investigate appointing a liaison officer from Council to deal directly with the Mardi Grass organisers so as to attempt to ensure that all relevant requirements and applications are taken into consideration and organised prior to the event.

It could rightly be argued that the organisers of the event should take full responsibility for all of these facilities, however, attempts to do so in previous years have not been completely successful due to a lack of funds and commitment.

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It is therefore recommended that Council give serious consideration to providing support to the whole of the Nimbin community during the Mardi Grass, by way of ensuring adequate facilities to provide an improved level of public safety, health and hygiene.

For the Building and Regulation section to be actively involved in pre-event co-ordination and inspections/supervision during the event, it is estimated that an additional wages component of \$700 to \$800 would be expected. This would cover costs of salaries for attending meetings after normal working hours and inspections over the weekend of the event.

**Manager Parks and Reserves - Neil Moreton**

The issue for our department lies in how much assistance can we provide. From a PR Perspective, we would like to provide assistance to organised, legally authorised events. However, these events cost our budget increasing sums of money each year.

As these events grow, so do the costs of providing waste management and street cleaning as these festival services are variations to our contract cleaners. Therefore, as the events grow in popularity, so do the support costs we provide. At some point we need to put a limit on just how much support we provide, so that we are able to budget with some certainty from year to year. At present these escalating costs only reduce to the amount of maintenance or level of service, delivery in other areas.

Identification of a festival/event support fund and allocation of appropriate funding would be a starting point.

**Summation**

After considering all requests, inputs and comments, it would appear that the primary issues are:

1. Is Council prepared to assist with the requested items and be prepared to do so on an annual basis?
2. Is there any source to finance / service / resource the various requests?
3. Is Council committed to taking legal action for any unauthorised / unapproved elements of the event which may occur?
4. Will the same courtesies extend to any other festivals / events which are held throughout the Lismore Council area?

From the various Council officer reports, it appears that:

- a. There is a general agreement that Council should play an assisting role, given that the event will occur anyhow, and legal action is not a desirable option if it can be avoided. Further, the interests of all residents would be more adequately served if Council takes a pro-active involvement.
  - b. There is no funding budgeted for any assistance by Council, and a separate budget for public events should be considered for future years if Council agrees to assist.
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- c. Waste management costs are estimated at \$1,700.00, with no funds currently available. It is probably more cost effective to use contractor services.
- d. An additional wages / resourcing cost would be needed to cover out of hours pre-event co-ordination and inspections / supervision during the event, for Council Law Enforcement Officers and Building Surveyors.
- e. The traffic control issues are generally in hand. Some signage can come from existing stock, with special signs being made relatively cheaply in Council's sign shop.
- f. Council should create a "festivals / events support fund" which would be a good starting point. This particular matter will be enlarged upon in a report on "Public Events Policy" to be submitted to Council at a forthcoming meeting.

### Conclusion

Council's direction for involvement in this matter is urgently needed. From a summation of all issues and aspects, it would appear that Council should be pro-active in assisting, within defined budgetary and resourcing allowances, those items as requested by the HEMP Embassy.

### Recommendation (PLA8)

- 1 That in order to minimise disruption to the Nimbin community, Council allocate \$10,000 for expenditure on public amenities for the 1999 Nimbin Mardi Grass.
- 2 That this funding be conditional upon all statutory requirements/applications being complied with and/or lodged to Council's satisfaction.
- 3 That the General Manager be requested to nominate appropriate Council staff member/s to act as Liaison Officer/s with the event organisers.
- 4 That consideration of on-going financial and other support for this and other major annual community festivals and events held in the Lismore LGA be undertaken by the Council in conjunction with the preparation and consideration of the 1999/2000 financial year budget.
- 5 That a report be prepared on the outcomes of the 1999 Nimbin Mardi Grass and be submitted to Council in conjunction with **4**.



Subject/File No: DRAFT LEP AMENDMENT - Items Deferred from Amendment No. 51

Prepared By: Manager Strategic Planning - Helen Manning

Reason: To advise Council of the further information received on deferred matters.

Objective: Progress items deferred from LEP Amendment No. 51.

Management Plan Activity: Strategic Planning

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Background:

At its meeting of December 15, 1998, Council considered a report on the exhibition of draft amendment No. 51 to Lismore LEP 1992. Draft Amendment No. 51 contained four (4) matters.

1. Rezoning of land at Lismore Airport for the development of a new terminal;
2. Rezoning of land at Tuncester for industrial use.
3. The development of a service station adjacent to the Hilltop Hotel, Bruxner Highway, Goonellabah.
4. Insertion of a clause relating to land zoned 6(a) Recreation to the effect that Council is not required to purchase the land so zoned if it has resolved to rezone it.

Draft Amendment No. 51 was exhibited for public comment and submissions to the exhibitions were considered by Council on December 15, 1998. As a result of issues raised in submissions, Items 1, 2 and 4 were deferred from Draft Amendment No. 51 pending receipt of further information. The resulting LEP Amendment No. 51 containing the service station enabling clause is currently awaiting the receipt of a legal opinion, after which it can be submitted to the Minister for making.

**Deferred Matters**

***1. Airport Terminal Rezoning***

Council deferred the rezoning of land for the new airport terminal from LEP Amendment No. 51 pending receipt of an evaluation on the effects of aircraft noise on surrounding development. A noise impact study has now been received, and an intersection analysis report and hydraulic impacts assessment report have now been made available to the author of this report. The contents of these studies will be expanded upon below.

***2. Rezoning of land at Tuncester***

Council requested the applicant to address major issues raised in objections. The substance of all objections has been relayed to the applicant with a request to advise Council as to whether or not the proposal is to proceed. To date, no response has been received.

***4. Clause relating to the acquisition of land by Council.***

When this proposal was initially advised to the Department of Urban Affairs and Planning, that Department raised concerns about possible inconsistencies between the clause and other requirements of the Environmental Planning and Assessment Act and recommended that Council seek legal advice. Legal advice has now been sought and that advice indicates that the proposed clause is legally acceptable and can be inserted into a Local Environmental Plan.

The remainder of this report considers the airport rezoning and the insertion of the new clause relating to acquisition of land zoned 6(a) and recommends that these items be included in a new amending LEP to be called Amendment No. 52 to Lismore LEP 1992.

***Airport Terminal Additional Information***

**Noise Impact Study**

The Study is included in the Attachments. It assesses the impact of noise from the proposed new terminal building on two (2) nearby caravan parks, a residence and a motel. The study predicted that the location of the proposed terminal building will result in an increase in the noise environment of residents at the caravan park, motel and the residence located south east of the airstrip. The change in environmental noise for residents at the western caravan park will be minimal. Noise impacts from individual events (ie. taxiing and engine checks) will be clearly audible above the background at the eastern caravan park and at the residence. However the total change at the three locations is predicted to be less than 1dB(A) at both these locations. The results indicate that the proposed terminal will comply with the EPA Guidelines for aircraft noise.

The impact of noise on the eastern caravan park, motel and residence will depend on the design of the terminal building and landscaping of the grounds. The study recommends that an acoustic barrier be constructed immediately behind the apron on the southern and eastern sides to impede noise travelling in the direction of the caravan park, motel and residence. The top of the barrier is to be at least 1 metre above a direct line between the aircraft engines and the receiving building. The barriers should extend to form part of the terminal building. The terminal building is to be constructed on an elevated earth mound rather than on stilt foundations.

**Hydraulic Impact Assessment by Sinclair Knight Merz**

Sinclair Knight Merz have carried out flood modelling for the South Lismore flood plain to determine the effects of the proposed new airport terminal complex and associated developments in the airport area on water levels, discharges and velocities (see copy in Attachment). Sinclair Knight Merz has taken the existing and levee conditions models and, beginning with the airport terminal complex, progressively analysed development options depending on the outcomes of each analysis. Results are given for the 100 year ARI flood event for the flood plain under either existing or levee conditions including such development as the Ti-Tree plantation, Chant development, and Wyrain Stage 2. The results are as follows:

<b>Case Modelled</b>	<b>Outcome</b>
1. Existing conditions model with: - Airport terminal development only	Negligible increases in water levels in Wilsons River adjacent to the development (max 10mm). <i>Development considered acceptable.</i>
2. Levee conditions model with: - Airport terminal development only.	Negligible increases in water levels in the Wilsons River adjacent to the development (max 10mm). <i>Development considered acceptable</i>
3. Levee conditions model with: - Airport terminal development; - Industrial development along Bruxner Hwy between the southern end of the levee and the proposed terminal site (approx. 750m).	Water level increases up to 50mm in the Wilsons River adjacent to the development. Increases in water levels up to 40mm in the Hollingsworth Creek area and up to 30mm in the CBD area. <i>Development considered acceptable as levels in Hollingsworth Creek do not exceed level for existing conditions.</i>

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4. Existing conditions model with: - Proposed new airport terminal development - Industrial development along Bruxner Hwy extending only 100m below the existing levee.	Increases in water levels in Wilsons River adjacent to the development of 10-20 mm. <i>Development considered acceptable</i>
5. Existing conditions model with: - Proposed new airport terminal development - Industrial development along Bruxner Hwy extending only 200m below the existing levee.	Water level increases of 20-30 mm in Wilsons River adjacent to the development. A localised increase in water levels near the Lismore power house of 20mm. 20mm increase in flood levels in the vicinity of Gasworks Creek in CBD. <i>Development considered acceptable if Gasworks Creek increases are accepted.</i>

In all cases modelled, lesser impacts than those reported would be experienced in the 20 year ARI flood or if the levee scheme was developed.

These results appear to be based on an assumption of filling the entire site.

#### Intersection Analysis Report

This report considers traffic usage of the Bruxner Highway under existing and future conditions and makes recommendations for intersection design. Intersection design is not a matter to be considered at the rezoning stage, suffice it to say that it appears that the terminal can be located in the proposed position and an intersection designed accordingly without major detrimental impact on traffic flows on the Bruxner Highway.

#### Consideration

It is unfortunate that the above reports were received subsequent to the rezoning application as the noise impact and hydraulic impact studies include information which should be made known to all decision makers and to the community. In these circumstances council has the following options:

1. Consider the contents of the Noise and Hydraulic Impact Assessments and determine whether or not to proceed with the Local Environmental Plan;

OR

2. Re-exhibit the rezoning proposal together with the Hydraulic Impact Assessment and the Noise Impact Study. Because of the noise impact noted on surrounding development it may be advisable to inform owners / occupiers of surrounding developments which will be affected of the existence of the Study so that they can consider it and make up their own minds as to whether or not to make a submission to the proposed rezoning. Re-exhibition could be in the form of:

- a) formal exhibition of 28 days; or

- b) “informal” exhibition as permitted by S66(3) of the Environmental Planning and Assessment Act. This section allows Council to exhibit a draft LEP or any other matter “for the purposes of informing the public generally”. No time period is specified.

OR

3. Council could resolve to proceed no further with the airport rezoning because of the findings of the Noise Impact Study. However, this option is not recommended as the consultant has proposed means of overcoming the additional noise generated.

**Item 4 - Change in LEP Wording regarding land zoned 6(a) - Recreation**

The background to this proposal is the amount of land in Lismore LEP which is zoned 6(a) Recreation, the operation of Clause 29 which requires Council to purchase such land on receipt of a written request from the landowner, the lack of funds identified to purchase such land, and the lack of documented reasons for zoning much of the land for acquisition. The new clause considered by Council on December 15, 1998 was copied from a gazetted LEP Amendment for another Council and was in fact drafted by the Parliamentary Counsel. DUAP raised concerns about its inclusion on the grounds that it may be contrary to Section 34 of the EPA Act. Subsequent to its deferment from LEP Amendment No. 51 legal advice was received to the effect that the Department’s concern was based on a recent court case which was in fact not relevant to Council’s proposal. The outcome of the advice is that if Council wishes to pursue the amendment there is no legal reason for it not to do so. It is recommended that this clause be included in the current amending Local Environmental Plan.

A copy of the draft LEP follows this report.

Manager - Financial Services Comments

Not requested.

Public Consultations

The airport rezoning application and the proposed new clause for 6(a) land have been exhibited previously.

However, because of the additional information received subsequent to the exhibition of these matters, it is recommended that the rezoning application, the draft LEP amendment and all supporting information be re-exhibited informally for a minimum period of two weeks. Council could then consider any submissions received and determine whether or not to proceed with the airport rezoning.

Other Group Comments

In relation to Noise Impact Study, **Manager - Environmental Health** has advised that:

The recommended standard for aircraft noise is nominated within Chapter 153 - Aircraft Noise Criteria for Residential Landuse, of the Environment Protection Authorities Environmental Noise Control Manual. The consultant appropriately recognises this standard which states:

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“ Where the ANEF ratings are not known, an  $L_{Amax}$  of 82 dB(A) should not be exceeded for an aircraft flyover and an  $L_{AeqT}$  of 55 dB(A) calculated for the total daily operating hours of the airport should not be exceeded.”

Following noise measurement and predicted attenuation section 2.6 of the statement compares the  $L_{Aeq}$  levels with the recommended environmental standard. The statement identifies that the present  $L_{Aeq}$  at the eastern caravan and eastern residence exceeds the recommended standard. In these situations the Environment Protection Authority enables a variation to the standard nominated by enabling an increase of no more than 2dB(A) over the predevelopment background. By adopting this variation the statement concludes

**“that the proposed new terminal will result in an increase in the audible noise at all four sensitive sites, with  $L_{A10}$  levels exceeding background levels by > 5dB(A) at the eastern caravan park and residence. However the increase in  $L_{Aeq\cdot 15hr}$  resulting from the proposed new terminal will be less than 1 dB(A) at all sites.”**

The assessment therefore identifies that the relocation of the terminal (with nominated attenuation measures) will not result in “background creep”, being the increase in background noise level as a result of the development. Even though the resulting noise level is greater than the nominated planning guideline it does not impact (assessed on a daily time period) on the noise environment currently experienced by the existing sensitive receivers. The principles of background creep and current elevated background levels were discussed with the Regional Office of the Environment Protection Authority resulting in the above comments being considered reasonable and appropriate in the nominated circumstances.

This conclusion is founded upon the incorporation of a 3.5 metre earth wall barrier constructed adjacent to manoeuvring areas on the eastern and southern sides.

Council’s Environmental Health Section accepts the report and associated assumptions and recommends the following:

1. That the consultant at this stage provides approximate design details of the recommended noise attenuation measures to facilitate assessment of floodplain management issues and project costings.
2. That the terminal building be constructed on an elevated earth mound rather than on stilt foundations.
3. That construction design plans for noise attenuation works is submitted with the future development application.

**Group Manager - City Works (Bill Moorhouse)**

Sinclair Knight Merz have examined five (5) Options for the 1 in 100 year flood. The report suggests that the only options that have little or no measurable effect on neighbouring land is the stand alone Terminal building with and without a future levee bank ie Options 1 and 2.

Options 3, 4 and 5 which consider developing land between the proposed new Terminal Building and the existing industrial area will have a small impact on the neighbouring properties. While these are small, they must be added to the cumulative effect already created by recent approvals for the Wyrain and John Chant sites.

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If Council is going to consider developing land in Options 3, 4 and 5, then compensatory works need to be included so that the net effect is very close to zero ie when fill is required it comes off the floodplain so that the net effect on storage is zero. Where waterways are restricted, other waterways are improved to compensate.

In a well-designed project the balancing of cut and fills and improvements to waterways can often be combined to achieve a desirable outcome for all concerned.

### **Conclusion**

The current rezoning proposal is for the Airport Terminal as a stand-alone development.

The information supplied by Sinclair, Knight, Mertz indicates that the Airport Terminal proposal will have minimal effect on surrounding properties ie less then 10mm of impact. Therefore, it is reasonable to rezone land for the Airport Terminal.

### **Recommendation (PLA9)**

That Council

- 1 Informally re-exhibit for 2 weeks draft LEP Amendment No. 52 which contains the airport terminal rezoning and the new clause relating to acquisition of public land.
- 2 Informally exhibit for 2 weeks the Noise Impact Study and Hydraulic Impact Assessment.
- 3 Advise surrounding land owners of the re-exhibition.
- 4 Agree that if no submissions additional to that previously submitted are received for either matter, the draft Local Environmental Plan be forwarded to the Minister for final approval without further reporting to Council.

Subject/File No: DEVELOPMENT APPLICATION 98/165 - The construction of a car park containing fifty five (55) car parking spaces; and sixteen (16) parallel car parking spaces at Part of High Street Road Reserve, opposite existing Lismore Heights Workers Bowling Club, Lismore Heights; and the erection of lights; removal of two (2) trees being one Silky Oak and one Poinciana; the construction of two (2) 'egg flip' roundabouts one being at the intersection of High Street, Simes Street and Donnans Road and one at the intersection of High Street and Renwick Street, Lismore Heights.

Prepared By: Development Assessment Planner - Brendan Toohey

Reason: Council Policy No. 5.2.2 Development Control Unit - Function and Modus Operandi.

Objective: To gain Council's approval for the construction of a car park and associated infrastructure.

Management Plan Activity: Development Assessment Section

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## 1 PRECIS

### **Applicant**

ASPECT North, 2A Carrington Street, Lismore, on behalf of Lismore Heights Workers Bowling Club.

### **Zoning**

Residential 2(a) pursuant to the Lismore Local Environmental Plan, 1992.

### **Location**

The subject site is located on the north eastern side of the High Street road reserve, directly opposite the existing entrance to the Lismore Heights Workers Bowling Club, and adjoining the intersection of High Street, Donnans Road and Simes Street, Lismore Heights, as detailed in Figure 1.

### **Proposal**

The construction of a car park containing fifty-five (55) car parking spaces; and sixteen (16) parallel car parking spaces within the High Street road reserve. Other associated works include the construction of roundabouts at the intersection of Simes Street, Donnans Road and High Street and the intersection of High Street and Renwick Street, Lismore Heights, as detailed in Figure 2.

### **Key Issues**

Public submissions and visual impact.

## 2 DESCRIPTION OF THE PROPOSAL

Council on July 1, 1998, received a Development Application for a the construction of car park within the High Street road reserve, adjoining the intersection of High Street, Simes Street and Donnans Road, the total development area being 2,237m<sup>2</sup>. The subject area is currently vacant, and is substantially cleared, supporting a number of established trees, exotic grasses and other ground covers.

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The applicant is seeking Council's approval to specifically develop the following: -

- construction of fifty five (55) car parking spaces;
- formalisation of sixteen (16) onstreet car parking spaces;
- the erection of lights;
- landscaping;
- the construction of "egg flip" roundabouts at the intersection of Simes Street, High Street and Donnans Road, and High Street and Renwick Street, Lismore Heights;
- removal of two (2) trees, being one (1) Silky Oak and one (1) Poinciana.

3 ASSESSMENT UNDER SECTION 79C OF THE E.P. & A ACT, 1979

**79C(1)(a)(i) Any environmental planning instruments (EPI), and**

The land is zoned Residential 2(a) pursuant to the Lismore Local Environmental Plan 1992. The development of a car park is permissible in the zone, subject to Council consent.

**79C(1)(a)(ii) Any draft E.P.I. that is or has been placed on exhibition**

N/A

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

**Development Control Plan 17 - Tree Preservation**

A tree plot outlining the location of all mature trees within the area to be developed for the car park was submitted by the applicant. Councils Parks & Reserves Section supports the removal of the nominated trees, as stated in the following comments: -

*"Overall, the concept of off-street car parking opposite the Bowling Club off High Street is positive from local resident's point of view. It removes any need to convert part of Jubilee Park (adjacent to the Club) to car park, a matter which has been under discussion for some time, but has received unfavourable reaction from residents in Simes Street and surrounds. The Parks Department have advised and commented on the landscaping associated with the car park, and as result, additional landscaping bays have been provided approximately every five car parking spaces in accordance with DCP 18, and more trees used for shade provision. With the inclusion of "fill-in" plants such as shrubs, perennials and ground covers, we are satisfied that the landscaping will fulfil aesthetic and functional requirements.*

*The existing vegetation to be removed consisting of the Silky Oak and Poinciana are not considered to be of significant environmental value, hence their removal in this instance is concurred with."*

As mentioned above the nominated trees for removal do not possess any significant ecological benefit. However, the removal of the trees will have a noticeable visual impact on the locality due to the prominence of the subject site, at least until trees planted in the car park gain some maturity.



### **Development Control Plan 18 - Off Street Car parking**

With the construction of the proposed seventy-one (71) car parking spaces, the Lismore Heights Bowling Club will have a total of one hundred and seventy one (171) car parking spaces available for use by patrons.

The proposed internal layout, dimension of car parking spaces and width of manoeuvring areas complies with Council's Development Control Plan.

Council's Development Control Plan No. 18 requires the construction of landscaped strips at regular intervals, being one (1) landscaped strip every five (5) car parking spaces. This requirement has been met. The location of landscaping strips at the nominated regular intervals will provide shade for users of the car park during the summer months and reduce the visual impact of the development on the surrounding locality.

**79C(1)(a)(iv) Any matters prescribed by the regulations**

N/A

**79C(1)(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,**

It is considered the formalisation of the parallel onstreet car parking and the creation of the fifty five (55) car parking spaces will ensure ease of walking distances to the amenities of the Lismore Heights Workers Bowling Club. This will in turn reduce external impacts of the Bowling Club (as outlined in some submissions), in that patrons will have available a well designed and conveniently located facility that will discourage the current practice of onstreet parking in front of residential properties.

It is agreed during the construction phase the car park will create a number of negative impacts on the surrounding residential area such as construction vehicles moving to and from the site. To control this impact it is proposed to restrict construction to prescribed hours (refer condition 21).

Should Council issue development consent, a condition will be imposed requiring adequate sedimentation controls being applied to the site during the construction of the car park.

As mentioned previously within the report a tree plot was requested from the applicant, detailing existing significant vegetation which is to be removed as a result of the proposed development. As a result of the study undertaken by the applicant the existence of one (1) *Desmodium acanthocladium* was located, which is listed as a Schedule 2 - Vulnerable Species pursuant to the Threatened Species Conservation Act, 1995. As stated in s.5A of the Environment Planning and Assessment Act, 1979 an applicant is required to undertake an '8 part test' to allow Council to make an informed decision regarding the effect a development or activity would have on a threatened species, populations or ecological communities, or their habitats.

The applicant has submitted an '8 part test', which was conducted by Mr James Warren. From the report it can be concluded the proposed development will not have a 'significant' effect on the subject shrub.

As part of the protection of these species the development consent has been suitably conditioned (refer to condition 17) to ensure the protection of the subject shrub via the erection of a vehicular barrier six (6) metres from the outer perimeter of the shrub. This will prevent disturbance by construction vehicles during the construction of the subject car park. Furthermore, the applicant is to submit a management plan for the *Desmodium* detailing means to ensure the reduction competition from weeds and any other threats to its survival.

**79C(1)(c) The suitability of the site for the development.**

The proposed area for the construction of the car park is currently unused road reserve. The site is generally flat, and adjacent to the existing carriageway, falling away to the north with an average fall of 18 %. With the proposed car park located predominately adjacent to the existing carriageway, the extent of the earthworks will be confined to 1.6 and 2.2 metre high retaining walls along the southern and northern car park boundaries, respectively.

Construction details have been requested to be presented with the engineering plans, certifying structural adequacy of the retaining walls.

The development area is predominately devoid of any significant vegetation, with only two trees to be removed, being a Silky Oak and Poinciana. The removal of these trees is supported in this instance given the extent of landscaping proposed as part of the car park development. The remaining vegetation to be removed consists of introduced grasses and ground covers.

An inspection of the site reveals that there are no visible signs of slippage, however, the consent has been suitably conditioned to require geotechnical supervision during the construction of the car park to ensure maximum stability of the development.

The car park is located directly opposite the entrance of the Lismore Heights Workers Bowling Club, allowing ease of pedestrian access from the car park to the club.

The site is visually prominent being located on the ridgeline traversing Lismore Heights. A visual analysis undertaken by the applicant details that a number of adjacent dwellings will be only effected on a minor scale by the proposed development. In addition, it is argued the proposed landscaping will further ameliorate any adverse effects of the car park on the immediate and local areas.

Stormwater generated from the development will be directed to Council's stormwater system in Donnans Road. The application has been suitably conditioned to provide these details with the engineering plans.

Lighting proposed for the car park for night time use has been designed to comply with *Australian Standard 4282 - 1997 - Control of the Obtrusive effects of outdoor lighting*. Documented evidence has been provided to Council which details this compliance.

Council requested the applicant to detail sight distances for vehicles entering and exiting the car park. The details outline that vehicles approaching from High Street (approaching westwards) have approximately one hundred and fifty five (155) metres sight lines, and one hundred and fifty (150) metres along Donnans Road.

Council's Traffic Committee viewed the subject proposal prior to the formal submission of the development application and has raised no objection to the proposed development.

**79C(1)(d) Any submissions made in accordance with this Act or the regulations.**

The proposed development application was advertised in the Northern Rivers Echo on 16 July 1998. Council also notified two hundred and fifty (250) occupiers of properties in the general vicinity of the development site. The period of exhibition was from July 16 to the closing date of July 30, 1998. At the close of the exhibition period six (6) written submission were received from the public and one (1) from a State Government Authority (NPWS). The details of these submissions have been outlined below with a complete copy of each submission in Annexure 1.

**Submission 1 (Peter McClaren)**

*Issues*

- The Lismore Heights area is primarily a residential area and this development would change the nature of the suburb.
- The adjacent land is zoned Residential and will be eventually developed. The noise and car lights late at night will interfere with these future ratepayers's enjoyment of the suburb.
- Has adequate provision been made for stormwater runoff?
- The car park will not enhance the sporting venue. There are already sufficient car spaces for bowlers in the daytime. The car park is being built to increase the profits of a retailer.

**Comment**

The Lismore Heights area is predominately a residential area, however, surrounding the development site are a mixture of land uses - a Public School, undeveloped residential land, private open space containing the existing Lismore Heights Bowling Club and Jubilee Park.

The car park is located above the undeveloped residential area, hence nuisance from car lights is not envisaged as being a problem. Noise from vehicles ingressing, egressing and starting of motors will have some effect, however, the proposed landscaped buffer areas will assist in the amelioration of these problems.

The application has been suitably conditioned to ensure all stormwater generated from the car park will be directed to Council's stormwater system.

**Submission 2 (Mrs D Martin, Secretary of P & C Association, Lismore Heights Public School)**

*Issues*

- The proximity of the proposed development to the school and its potential effect on the safety of students during their arrival and departure.

**Comment**

Sight line information presented by the applicant details that sight distances of approximately one hundred and fifty (150) metres will be achieved in the direction of the public school. This is considered a safe distance given the relatively low speed of vehicles egressing the car park and the 40 kph speed limit, which applies either side of the Lismore Heights Public School.

Furthermore, the formalisation of car parking along High Street will further increase sight distances in both directions along High Street.

**Submission 3 (Monique Neeson)**

*Issues*

- Increase in traffic, increased noise pollution, and safety issues.
- Simes Street is narrow, unlit and provides no footpath for residents, children or patrons of the club.
- Reduces visibility and the current road condition jeopardises safety of pedestrians, especially when traffic is increased.

**Comment**

The car park itself will not increase traffic as there is no intensification in the land use. The car park will assist in the reduction of car parking along High Street, due to the correct linemarking and erection of “no standing” signage in the vicinity of the subject development.

Simes Street does not form part of the proposed development. It is, however, acknowledged that due to the proposed improvements to the intersection of Simes Street, Donnans Road and High Street traffic movements may marginally increase in Simes Street.

**Submission 4 (DB & V McLean)**

*Issues*

- Proximity to residents and school.
- Noise generation until late at night.
- Increased traffic and late operating hours, which already exist, are currently causing ongoing complaints. A new car park would only increase the existing problems.
- Light nuisance, cars coming and going, general and security lighting of car park.
- Cut and fill to establish a car park.
- Devaluation of land due to loss of amenity.
- Have provisions been made to accommodate the increase in water runoff from the proposed development?

- The Lismore Heights area is primarily a residential area and this development would interfere with the current tranquillity of the area.
- Pedestrian safety would have to be improved given the car park is to be built on the opposite side of very busy road.

**Comment**

The nearest existing residential dwelling house is located approximately fifty (50) metres from the car park.

A new car park will not intensify the existing business operations of the Lismore Workers Heights Bowling Club.

The car park will be suitably landscaped to ensure glare from vehicle headlights will have no significant impact upon surrounding residential properties. Furthermore, the location of the proposed car park above surrounding developed and undeveloped residential areas will further reduce this impact.

The proposed car park lighting has been designed to comply with *Australian Standard 4282 - 1997 - Control of the Obtrusive effects of outdoor lighting*.

Cut and fill will be required to establish a suitable surface level for the car park. As part of these works 1.6 and 2.2 metre high retaining walls are proposed. The application will be suitably conditioned for engineering plans to be submitted addressing construction details.

No information was presented in the public submission detailing the effect the car park would have on adjoining or surrounding property values.

Council has received satisfactory details from the applicant regarding the disposal of stormwater to Donnans Road, Lismore Heights.

As outlined previously, the Lismore Heights area is predominately a residential area, however, surrounding the development site is a mix of non-residential land uses.

The application will be suitably conditioned to require construction of a pedestrian refuge containing bollards and 1.5 metre wide footpath from the car park to the property boundary of the Lismore Heights Bowling Club. This will assist in defining pedestrian precincts for the efficient movement of pedestrians. The placement of a pedestrian refuge protected by bollards will also assist in the protection of pedestrians crossing High Street.

**Submission 5 (Rodney Huntly)**

*Issues*

- Danger to children from the adjacent primary school and degrade the quality of life and security around my home.

**Comment**

The ingress and egress points are located to allow satisfactory sight lines in both directions along High Street and Donnans Road. In addition 40 km/h speed limits

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apply at times when movements of school children are active outside school boundaries, that is 8.00 to 9.30 am and 3.00 to 4.00 pm.

The car park will not intensify the use of the existing Lismore Heights Workers Bowling Club but enhance the existing car parking situation.

**Submission 6 (Brenda Hall-Taylor)**

*Issues*

- It will degrade the quality of life and security of the area of my home.
- The current time problems associated with the clientele of the Bowling Club are already being experienced. Patrons who leave the Bowling Club on foot and are walking home to residences on the lower side of High Street, such as Woodland Avenue, Bruxner Crescent, who are most often drunk, noisy and foulmouthed. Some are so drunk they are unaware that they are walking along the path at the side of my house, which being late at night or early morning has caused me great alarm. Their empty beer bottles are testimony to the path they take through this private property.

**Comment**

The location of the car park will encourage patrons to park away from nearby residences and thereby reduce the incidence of this form of intrusion on to private property.

The construction of the car park will not intensify the use/patronage of the existing Lismore Heights Workers Bowling Club.

**Submission 7 (Dr Catherine Carmont)**

*Issues*

- Erosion of the public amenity of high street. The crest of the hill opposite the Lismore Heights Public School and the Lismore Heights Workers Bowling Club provides a unique vista to mountain ranges which reinforces a tranquil setting of Lismore Heights to residents and visitors alike. Lighting and cut and fill damage to the existing setting would permanently alienate a prime attraction for the Lismore tourist register.
- Safety considerations - the Donnans Road/High Street intersection has poor visibility, given the angle at which Simes Street enters the intersection.
- Environmental protection.

**Comment**

It is acknowledged that during the construction phase the site will have an unattractive appearance. However, the proposed landscaping once established will improve the amenity of the locality. The application will be suitably conditioned to ensure the landscaping is appropriately maintained for three (3) years from the date of planting to ensure it becomes well established.

The proposed lighting has been designed to comply with *Australian Standard 4282 - 1997 - Control of the Obtrusive effects of outdoor lighting* which outlines appropriate standards.

A condition has been recommended requiring the applicant/developer to construct a roundabout at the intersection of Donnans Road/High Street. The construction of the roundabout will improve the efficiency of the intersection, and subsequently increase the vehicular and pedestrian safety of the respective roads.

The application will be suitably conditioned to ensure sedimentation control measures are employed to facilitate the stabilisation of soil within the development site. Stormwater generated from the car park will be directed to Council's stormwater system in Donnans Road. Furthermore, the proposed landscaping will reduce the radiated heat from hard surface areas of the proposed car park.

### **Correspondence from Government Department**

#### **NSW National Parks and Wildlife Service (NPWS)**

The NSW National Parks and Wildlife Service were not formally notified of this Development Application, as the subject area to be developed was generally clear of vegetation. However, the NSW National Parks and an objector notified the Wildlife Service and a submission was made to Council. The submission contained the following comments:

*“NPWS has responsibility for the care and protection of native flora and fauna, site of Aboriginal archaeological heritage throughout NSW and for the management of NPWS. The following comments relate to these responsibilities and are offered to assist Council in its consideration of this application.*

*The NPWS notes that Jubilee Park, which the NPWS understands is adjacent to the subject land, contains a remnant of the Big Scrub Rainforest community that has been almost entirely cleared. The NPWS has been informed that the remnant contains rare or threatened Australian plant species. Accordingly, NPWS believes that this remnant should be recognised and managed for its high conservation values. The NPWS recommends that Council consider the potential for the proposal to impact on threatened species and the extent of the natural heritage values of the remnant in its assessment of the proposal. NPWS further recommends that Council is in the position of adequate powers to protect the remnant from development activities.”*

#### **Comment**

NPWS was contacted regarding their submission and advised that the proposed development did not adjoin the existing remnant vegetation which is located in the Crown Reserve known as Jubilee Park, but was opposite the existing entrance to the Lismore Heights Workers Bowling Club. Upon receipt of this information, NPWS advised that they had no further comment.

#### **79C(1)(e) The public interest.**

The proposed car park is to have security lighting erected in strategic locations. As outlined previously, the proposal's compliance with the Australian Standard will result a minimal level of impact upon adjoining residential areas.

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The proposal will have a positive social impact by providing patrons of the Lismore Heights Bowling Club with additional off street car parking in a convenient location. It will also discourage the need for patrons to park on roads in front of residential properties.

The proposed landscaping will reduce the visual intrusion of the car park. Councils' Parks and Reserves Section have viewed the amended landscaping plan and are satisfied with the changes.

The proposal to construct roundabouts on the corners of Donnans Road and High Street and High Street and Renwick Street will improve the function of these intersections, public safety and traffic flows.

#### **4 SUBMISSIONS FROM OTHER COUNCIL GROUPS/SECTIONS.**

*Council's Environmental Health and Building Regulation* have commented on the proposal and have raised no objection to the development, subject to the annexure of a number of conditions should a development consent be issued.

*Council's City Works Group* have commented on the proposal and have raised no objection to the development, subject to the annexure of a number of conditions should a development consent be issued.

##### ***Local Traffic Committee***

The applicant prior to the submission of the current development application sought the comments of Council's Local Traffic Committee at its meeting held May 20, 1998. The Traffic Committee assessed the proposal and the following comments were made:

*The committee supported the proposal in principal with the following additions considered necessary as part of the overall proposal -*

- (a) *the minimum depth of the pedestrian refuge should be 1.2m;*
- (b) *pedestrian lighting should be installed at the pedestrian facility;*
- (c) *the centre ring of the 'fried egg' roundabouts at the intersection with Donnans Road and Renwick Street should have lip of 65mm - 75mm.*

*It was also noted that ownership of the land in question would need to be addressed.*

The above matters have been addressed satisfactorily with the submission of the current development application.

##### ***Council's Property Services Manager***

The subject land is owned by Lismore City Council hence the applicant will be required to enter into a formal lease with Council. Such lease will be for a period not exceeding five (5) years. The details of the lease will be negotiated between the applicant and Council's Property Services Manager, as required in condition 13.



## 5 CONCLUSION

The development of the subject area for a car park is considered an appropriate form of development which will improve the amenity of the locality by providing sufficient car parking facilities for the Club in a convenient location adjacent to existing facilities.

It is acknowledged that the proposed car park will have an adverse impact on the visual amenity of the locality during construction. However, the proposed landscaping will significantly reduce this visual intrusion over time.

It is considered the development of the subject area for a car park containing fifty five (55) car parking spaces and sixteen (16) parallel onstreet car parking spaces and associated infrastructure satisfies s.79(c) of the Environmental Planning and Assessment Act (as amended), 1979.

## RECOMMENDATION (PLA4)

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

B That Council, as the consent authority, approve Development Application 98/165 for the construction of a car park containing of fifty five (55) car spaces and sixteen (16) parallel car parking spaces in High Street road reserve, Lismore Heights; removal of one (1) Silky Oak and one (1) Poinciana; construction of two (2) roundabouts one (1) at the intersection of High Street, Simes Street and Donnans Road and one (1) at the intersection of High Street and Renwick Street, Lismore Heights; the construction of a 1.2 metre wide pedestrian refuge and concrete median strips; and the erection of lights.

1 In granting this development consent, Council requires:

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

and be substantially in accordance with the stamped approved plan(s) No. 3318/2, 3318/3 and 3378/2 and dated 28/9/98 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)*

## DRAINAGE

2 Hard surface areas, landscaped areas, roof water and subsoil drainage systems shall be designed so all water is directed to a Council approved drainage system to prevent discharge runoff onto adjoining land. This system shall be constructed in accordance with Council's Development and Construction Manual (February 1993) as amended from time to time. **DG1**

3 Measures shall be put in place to control stormwater runoff. These control measures shall prevent soil erosion and the transport of sediment from the development site into either:

- natural drainage courses
  - constructed drainage systems, or
  - waterways.
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All disturbed areas shall be stabilised and revegetated. Turfing or another approved seeding method shall be undertaken in each part of the development within 14 days of completion of earthworks. Topsoil shall be preserved for site revegetation. Details of sediment control measures and revegetation works shall be submitted for Council approval prior to release of the engineering plans. **DG4**

4 A practising qualified surveyor is required to furnish a certificate confirming:

- all drainage lines have been located within the respective easements,
- roadworks are in accordance with the approved design plan, and
- any other structures like retaining walls are located in accordance with the approved design plan. **DG6**

5 The proposed car park shall incorporate a stormwater retardation system. The design shall ensure flows are no greater than the predevelopment discharge calculated from the 1 in 100 year event. The drainage system shall be designed so all water is piped to Donnans Road, directing water to a defined flow path acceptable to Council. Full design details of the proposed drainage system shall be submitted for approval with the engineering plans. (SPC)

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

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

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

#### **EARTHWORKS**

6 The slope of the fill batter shall not exceed 1:4. The batter shall be stabilised with plantings and maintained in a neat state. Details of plantings and maintenance regime shall be submitted to Council prior to release of any engineering plans. **EW5**

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

#### **ROADS**

7 The applicant or developer shall provide the following roadworks with associated stormwater drainage structures that have been designed and constructed in accordance with Council's Development and Construction Manual (February 1993) as amended from time to time. The applicant or developer shall be responsible for any costs, including maintenance, for a period of twelve months from the date of approval of the work. Required roadworks include:

##### **URBAN ROAD**

- a) Construction of an urban, bitumen sealed road shape with a width of eleven (11) metre between kerbs for the full frontage of the development in High Street in accordance with Council's Development and Construction Manual (February 1993) as amended from time to time.
  - b) Construction of a single lane circulating roundabout incorporating a concrete island at the intersections of High Street and Donnans Road and High Street and Renwick Street in accordance with Austroads Part 6.
  - c) The proposed access to the car park shall be located a minimum twelve (12) metre from the intersection of Donnans Road.
  - d) On street car parking is to be designed so as not to interfere with the existing Bus Stop located at the Bowling Club/Primary School boundary.
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- e) A concrete median island is to be constructed along the centre line of High Street so as to prevent right turn movements to and from the proposed Caremark.

A practising qualified surveyor or engineer shall submit a "works-as-executed" set of plans showing the satisfactory completion of all roads and drainage works required by this consent. **RD1**

- 8 Full design plans of the proposed engineering works to satisfy condition(s) shall be submitted to Council. Such plans must be approved by Council's City Works Group before construction of drainage or road works are commenced. A practising qualified surveyor or engineer shall submit a "works-as-executed" set of plans showing the satisfactory completion of all roads and drainage works required by this consent, and in relation to the adjacent road boundaries. **RD2**

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

### **VEHICULAR ACCESS**

- 9 Driveways, access aisles and parking areas shall be provided with a bitumen sealed or other approved surface. Such a surface shall be on a suitable pavement, constructed and maintained in accordance with Council's Development and Construction Manual (February 1993) as amended from time to time. **VA2**

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

### **CARPARKING**

- 10 All car parking spaces are to be free from any obstruction at all times, and be available for the use by the public at all times. (SPC)
- 11 Signs shall be erected at the entrance and exit of the car park clearly indicating off-street parking is available. In addition the signs are also to clearly indicate the exit and entrance point to the subject car park. **CP2**

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

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

### **PEDESTRIAN ACCESS**

- 12 The applicant or developer shall construct a 1.5 metre wide reinforced concrete, paving block or equivalent footpath, leading from the proposed car park to the property entrance. The road crossing shall also incorporate a 1.2 metre wide pedestrian refuge and bollards. Any costs shall be the responsibility of the applicant or developer. **PA1**

*Reason: To ensure that adequate provision is made for access to and from the development for disabled people. (EPA Act Sec 79C(b))*

### **PLANNING**

- 13 A formal license for the development area is to be entered into with Council prior to works commencing. Such a license is to include details of Public Liability Insurance. (SPC)

*Reason: To require a formal license to be entered into for the use the subject site.*

**LANDSCAPING**

- 14 The landscaped areas as detailed on plan entitled "3378/2 Landscape Plan" are to be planted using plants from a container of minimum size of thirty five (35) litre bags or two (2) metres high, and shall be maintained by the applicant in a healthy and vigorous condition until they attain the minimum height for protection by Council's Tree Preservation Order. Prior to protection by Council's Tree Preservation Order, any of the aforementioned trees found to be in poor condition (*damaged, dying or dead*) shall be replaced by the applicant with a tree of the same size and species. (SPC)
- 15 Amended landscape plans are to be submitted with the engineering plans, detailing the inclusion of native perennials, shrubs and/or ground covers, which will assist in the reduction of weed infestation.
- 16 Maintenance of all landscaped areas is to occur in accordance with Council's Landscape Guidelines. (SPC)
- 17 The proposed development in the vicinity of the following Threatened Species (shrub) shall be suitably designed not to adversely affect the continued preservation of the shrub and its likely future growth habits. Council grants no consent to the pruning or removal of this shrub.

In addition, the applicant shall ensure that at all times during the construction period no activities, storage or disposal of materials shall take place within six (6) metres of the furthest spread of the shrub.

Earthworks shall not commence until the area six (6) metres around the perimeter of the following shrub is protected by a highly visible vehicle barrier. The shrub protection shall be maintained intact until the completion of all works onsite.

The design of the proposed works must allow for the successful preservation of the above shrub. Details of how this will be achieved are to be submitted to Council with the Engineering Plans. (SPC)

<u>Species</u>	<u>Location</u>	<u>Dimension</u>
<i>Desmodium acanthocladium</i>	ten (10) metres north of retaining wall	three (3) metres

- 18 A management plan for the *Desmodium acanthocladium* is to be submitted and approved with the engineering plans detailing the following matters:
- assessment of extent of species in the general locality and its continued viability;
  - measures to ensure that the proposed development does not impact on the species;
  - measures to ensure that activities generated as a result of the proposed development do not impact on the species;
  - measures such as weed control, to assist the continued viability of the species is to be undertaken.

**Reason:** To ensure that appropriate landscaping is provided and maintained. (EPA Act Sec 79(b))

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

**Reason:** To ensure the protection of a Threatened Species.

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**SIGNS/ADVERTISING/LIGHTING**

19 All outdoor advertising material, signs or decorative materials (including flags or bunting) shall be approved by the Council prior to erection, in accordance with Development Control Plan No. 36 Outdoor Advertising Structures (as amended). A separate application shall be submitted. **AD1**

20 All lighting is to comply with *Australian Standard 4282 - 1997 - Control of the Obtrusive effects of outdoor lighting*, with particular emphasis on prevention of light spill onto adjacent and nearby residential properties. (SPC)

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

*Reason: To ensure the effects of lighting are tolerable for adjoining residential areas.*

**AMENITY**

21 Construction hours for the car park and associated infrastructure shall be between 7.30 am to 5 pm, Monday to Friday and 8am to 3pm on Saturday with no work to be undertaken on Sundays and Public Holidays. **AM1**

22 Waste receptacles are to be suitably located at the entrance of and within the car park. Details of locations are to be submitted with the engineering plans. (SPC)

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

Subject/File No: LEP AMENDMENT NO. 45 - HERITAGE

Prepared By: Strategic Planner - Jemina Dunn

Reason: To inform Council of necessary alterations to proposed LEP Amendment No. 45 - Heritage, to the Lismore LEP 1992

Objective: Council's approval for the preparation of an LEP Amendment incorporating built heritage, heritage, archaeological items and conservation areas.

Management Plan Activity: Strategic Planning

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Introduction:

The major recommendation of the 1995 Heritage Study related to amendment of the heritage provisions and schedules within the Lismore Local Environmental Plan (LEP) 1992. As Councillors will recall, Amendment No. 45 - Built Heritage was initiated in 1998. This amendment sought to alter the existing LEP heritage provisions updating them to meet NSW Heritage Office requirements, in addition to adding a number of new items of *built* heritage. Council also endorsed formulation of a second separate amendment to be initiated in 1999 regarding *archaeological heritage, landscapes and conservation areas* to be known as Amendment No. 52. This amendment was to be commenced following further consideration of a number of proposed items by the Heritage Study Steering Committee.

Due to resource constraints within the Strategic Planning Division and a need to ensure previous Heritage Study public consultation mistakes were not repeated, a delay was experienced finalising the required landowner notification database for public exhibition of proposed Amendment No. 45. Although this work is now largely complete, consideration of archaeological heritage items and conservation areas by the Steering Committee in the interim means it is now possible and more efficient to combine both matters in a single amendment.

This amendment could be exhibited as Amendment No. 45 - Heritage, (as opposed to "Built Heritage" as it was previously known) and would include both built and archaeological heritage, landscapes and conservation areas. Such action would remove the need for duplication of many administrative requirements associated with the LEP amendment process and was endorsed by the Steering Committee at its meeting of 4 February, 1999.

Accordingly this report seeks Council's endorsement of this action, in addition to approval to include certain archaeological items, landscapes and conservation areas, as recommended by the Steering Committee, in either the LEP (Attachment 1) or a previously Council endorsed DCP for Heritage (Attachment 2). This approval would allow prompt exhibition of the combined heritage amendment.

Background: Archaeological Items, Landscapes & Conservation Areas

Council's Heritage Study recommended the addition of a number of newly identified archaeological items and a considerable number of "rural landscapes" to the Schedule 2 heritage listings of the LEP.

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It also recommended removal of the existing Dalley Street Conservation Area, and inclusion of new conservation areas in the Lismore CBD (Spinks Park) in the locality of St Carthages Cathedral and the main street of Nimbin. Girards Hill Conservation Area was recommended to be retained.

With the exception of the Dalley Street Conservation Area issue, the newly combined amendment generally reflects these recommendations with proposed listings drafted in close consultation with the Heritage Study Steering Committee. Further investigation of items resulting from public submissions considered by the Steering Committee has resulted in some amendments to the initial Study recommendations. Where these have occurred they have been either directly recommended or endorsed by Perumal Murphy Wu.

In essence the newly proposed archaeological and conservation areas component of the amendment seeks to retain existing archaeological items in the LEP, add several new archaeological items and a number of newly identified regional significance rural landscapes, in addition to adding a number of new Conservation Areas to Schedule 1 of the LEP. The plan also seeks to add a number of references relating to archaeological items to the previously endorsed Heritage Provisions.

### **Archaeological Items**

Historical archaeological sites or items are physical evidence of the past and have potential to increase knowledge of earlier human occupation, activities and events. Archaeological items included in the Heritage Study are diverse and include cemeteries, drains, flora reserves, memorials, schools, railway viaducts, bora rings, houses, saw mills, dairy farms and brickworks. Ruins of former structures or sites of historically important events are also included. In some circumstances places have been identified as being both of built or architectural importance as well as being noted for their archaeological value. Some sites are wholly below the ground surface, others partially or wholly above ground. They can be in ruins, intact or still functioning.

A total of fifty five (54) archaeological sites were initially considered for listing in Schedule 2 of the LEP by the Steering Committee. Of these, fifteen (15) items/sites are currently listed in the LEP and are proposed to retain their current status. Appendix 3 of the attachments to this report lists these items. Following consideration of the balance of items, and further investigation of a number items subject to public submissions, the Committee resolved to endorse inclusion of twenty (21) of fifty four (54) identified in the proposed Heritage DCP rather than the LEP. This was largely on the basis that these items were of local significance and could be expected to be adequately protected by inclusion in a DCP. Councillors will recall that a similar system was adopted for the initial Amendment No. 45 relating to built heritage where only high local, regional and state items were to be included in the LEP.

Accordingly the draft amendment proposes inclusion of a total of thirty-one (33) archaeological items (Appendix 1), nineteen (19) of which have not been previously listed. A total of twenty one (21) are deemed to be of local significance and are accordingly proposed to be included in the Heritage DCP. Councillors will note that in some cases items listed in Appendix 1 for inclusion in the LEP will not appear in the formal Amendment instrument. This is because the item is already currently listed in the LEP and will not need to be exhibited for inclusion.

### **Rural Landscape Listings**

Councillors might recall that when the Heritage Study was initially exhibited in 1996 a large number of recommended listings for "Landscape" items resulted in objections from concerned landowners. In

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this regard there was a particularly strong response from landowners affected by proposed “Rural Landscape” listing of private farms.

The initial Heritage Study had identified a significant number of rural landscapes, commonly vistas or views, considered to be significant to the local area and region. Proposed landscapes included listings such as views over rural valleys, the Tuckean and remnant areas of the Big Scrub, in addition to nomination of stands of trees on private rural lands. In the case of landscapes, the boundaries were identified photographically rather than on a cadastral basis with listings related to views in a particular direction from a cited location often vaguely encompassing many properties.

These listings resulted in administrative difficulties for staff attempting to identify land and relate cadastral boundaries to each listing. Furthermore the majority of rural landowners affected feared future agricultural use of land would be constrained by policy aimed at ensuring particular existing rural views be “snap frozen in time”.

These concerns resulted in the Heritage Study Steering Committee commissioning Perumal Murphy Wu to further consider each recommendation for listing. The result was a revised schedule of items for LEP inclusion with only those items of regional significance retained. The balance of items were given a “recorded only” status with a recommendation for review at five (5) yearly intervals. This was due to the acknowledged difficulty in managing rural landscapes with unidentified cadastral boundaries, and the difficulty of formulating appropriate policy, particularly in light of the dynamic nature of agricultural landuse. In the majority of cases properties identified as regional significance items suitable for LEP listing were publicly owned properties.

Accordingly, the initial Heritage Study proposal for listing of approximately two hundred (200) landscape listings has been amended to reflect a reduced total of forty-nine (49) largely publicly owned properties (Appendix 4). These items have been tentatively endorsed by the Steering Committee subject to further investigation of a small number of items where tenure status remains questionable. In this regard the Strategic Planning Section seeks Council’s approval to include all of the forty nine (49) properties detailed in Appendix 4 in the exhibition of Draft LEP 45 with final inclusion of those of questionable status (indicated in bold in Appendix 4) to be further investigated during the exhibition period. The outcome of these investigations could then be reported to Council following exhibition and results considered with any relevant public submissions.

Accordingly it is recommended that the following items (indicated in bold on Attachment 4) be exhibited with the amendment but be subject to further investigation regarding ownership status and implications of listing:

- 30180 Former Dungarubba School Grounds (ownership status)
- 300042 Tuckurimba Swamp Forest and Rural Landscape (impact on horticultural/agricultural pursuits)
- 30050 Orchard and trees, Smith Street, Clunes
- 30016 Native vegetation, Goolmangar Creek (ownership status)
- 30037 Natural vegetation, Pelican Creek, South Gundarimba (ownership status)
- 30106 Native forest, The Channon Road, The Channon
- 30024 30 Thorburn Street, Nimbin
- 30089 “Cedarville” Grounds, Rayward Road, Dunoon
- 30080 Trees, Ridgewood Road, Rosebank (ownership status)
- 30158 “Monaltrie Grounds” East Gundarimba



### **Conservation Areas**

In regard to Conservation Areas the Heritage Study recommended retention of the existing Girards Hill and St. Andrews Conservation Areas (Appendix 5) within the LEP and removal of the Dalley Street Conservation Area. New Conservation Areas were proposed at North Woodburn (Appendix 6), Nimbin (Appendix 7), in the vicinity of St Carthages Cathedral (Appendix 8) and at Spinks Park (Appendix 9). A "Lismore Village Archaeological Zone was also proposed (Appendix 10). For ease of consideration these areas will be discussed separately.

### **Dalley Street**

Widespread public concern was expressed regarding the removal of Conservation Area status for Dalley Street. Councillors will recall that following this reaction the consultants were called upon to justify exclusion of the existing Conservation Area which is located directly opposite St. Vincent's Hospital.

The consultants acknowledged that whilst the street contained a number of large, grand and relatively intact homes, that were not under any significant threat of demolition and were not particularly representative of the best intact streetscapes in the city. Despite this, and in light of public feeling regarding the issue, they did however concede that there was some value in retention of the conservation area and that they would have no objection to LEP listing of the area as a conservation precinct. Retention of Dalley Street has been endorsed by the Steering Committee at its recent meeting.

### **North Woodburn**

Councillors will recall that the majority of North Woodburn landowners vehemently objected to North Woodburn being included in the LEP as a Conservation Area when the Heritage Study was initially exhibited. Perumal Murphy Wu have advised that the conservation area recommendation was based on subdivision patterns only and they would not object to altering their recommendation to remove the proposed designation.

The Steering Committee considered the matter at their recent meeting and has resolved that North Woodburn not be included in the current proposed amendment on the basis of strong public opposition and in light of previous informal assurances to landowners the area would not be listed.

### **Nimbin**

The boundaries of the proposed Nimbin conservation plan coincide with those of the existing National Trust Conservation Area listing for the village and a recent listing of the locality as a conservation area in the North Coast Regional Environmental Plan (REP) by DUAP. There were few submissions against the proposal following exhibition of the Heritage Study and the Nimbin Community appears to be generally supportive of the proposal.

The Heritage Study Steering Committee supported the listing at their recent meeting and accordingly inclusion of the area of Nimbin indicated on the extract from the Draft LEP included as Appendix 7 is recommended.

### Manager - Financial Services Comments

Not required for this report.

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### Public Consultations

As discussed above the Heritage Study was formally exhibited in 1996. Since this time the Heritage Study Steering Committee has liaised with a large number of affected landowners in attempts to resolve public concern. The amendment currently under consideration has been drafted taking into consideration comments from submissions received in response to the initial exhibition period.

In accordance with requirements of the Environmental Planning and Assessment Act and Provisions Draft Amendment No. 45 will need to be placed on exhibition for a minimum of twenty eight (28) days should Council resolve to proceed with the amendment. As the matter has previously been the subject of considerable public concern it is recommended that this period be extended to six (6) weeks to allow adequate time for public consideration of the policy and its implications. This will allow affected landowners to consult with Council's Heritage Advisor should they have significant concerns and prepare a suitable submission in response.

### Other Group Comments

Not required for this report.

### Heritage Study Steering Committee Comments

The Heritage Study Steering Committee have been closely associated with the drafting of proposed archaeological, landscape and conservation area Schedules for inclusion in Amendment No. 45 and resolved to endorse them at its meeting of Thursday 4 February, 1999. It is anticipated that the Committee would play a role in review of the written instrument and any public submissions following the exhibition period. Accordingly, any further Committee comments will be conveyed to Council in the report following exhibition of the amendment.

### Conclusion

In essence the newly proposed archaeological and conservation areas component of the amendment seeks to retain existing archaeological items in the LEP, add several new archaeological items and a number of newly identified regional significance rural landscapes, in addition to adding a number of new Conservation Areas to Schedule 1 of the LEP.

The Heritage Study contained many recommendations for the protection and conservation of Lismore's cultural heritage. Archaeological sites and conservation areas provide valuable information about past people, events and processes significant to Lismore's current community and future generations. Inclusion of items and places identified by the Heritage Study and endorsed by the Steering Committee for inclusion in heritage schedules of the LEP and a Heritage DCP will ensure appropriate management and protection in the future and accordingly should be proceeded with as promptly as possible.

### Recommendation (PLA12)

- a) That in accordance with the recommendations of the Heritage Study Steering Committee archaeological items, landscapes and conservation areas be added to LEP Amendment No. 45 - Built Heritage to form a consolidated LEP to be known as LEP Amendment No. 45 - Heritage;

- b) That pursuant to Section 54 of the Environmental Planning and Assessment Act 1979, Council resolve to initiate the archaeological / conservation / landscape area component of the LEP amendment and to exhibit for a period of six (6) weeks, a consolidated Local Environmental Plan amendment to:
- 1) amend Schedule 2 of the Lismore Local Environmental Plan 1992 to include and remove built items as previously resolved by Council at its meeting of 10 March, 1998;
  - 2) amend the existing heritage provisions of the LEP to reflect the standard provisions of the NSW Heritage Office as previously resolved by Council at its meeting of 10 March, 1998 with the addition of references to archaeological items and conservation areas as appropriate;
  - 3) retain existing archaeological items within Schedule 2;
  - 4) add to Schedule 2 heritage listings, archaeological items as identified by the Heritage Study, endorsed by the Steering Committee and listed in Appendix 1
  - 5) add to Schedule 1 - Conservation Areas, new conservation areas as identified in the Heritage Study and endorsed by the Steering Committee being St Carthages Cathedral Precinct, Spinks Park and Civic Precinct and Nimbin Conservation Area;
  - 6) retain within Schedule 1 - Conservation Areas, of the LEP existing conservation areas including Girards Hill, Dalley Street, and St Andrews Conservation Areas;
  - 7) add an Archaeological Management Zone to be known as the *Lismore Village Archaeological Zone* as recommended by the Heritage Study and endorsed by the Steering Committee; and
  - 8) add to Schedule 2 heritage listings, landscape items recommended in the Heritage Study listed in Appendix 5 in the attachments to this report with those indicated in bold in Appendix 5 to be subject to further investigation and reporting following exhibition:
- c) That Council include archaeological items endorsed by the Steering Committee and included as Appendix 2 in the attachments to this report, within heritage schedules of the proposed Heritage DCP.
- d) That draft LEP Amendment No. 45 be exhibited in accordance with the Best Practice Guidelines published by the Department of Urban Affairs and Planning in January 1997 titled LEP's and Council Land Guideline for Council using delegated powers to prepare LEP's involving land that is or was previously owned or controlled by Council

Subject/File No: SECTION 94 PLAN REVIEW UPDATE (S517)

Prepared By: Group Manager-Planning & Development – Phil Sarin

Reason: Inform Council of progress on the Plan review and obtain direction on a potential levy reduction target.

Objective: Gain Council approval for a reduction in Section 94 levies.

Management Plan Activity: Strategic Planning Section

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Background:

As Council will be aware, the current Section 94 Plan has been under review for some time. Up until last July, this review was focussed on a major reworking of the document both from a content and format perspective.

Around the same time, Council staff became aware that the State Government had commissioned a study into the effectiveness of Section 94 of the EP&A Act as a means to raise funds from developers to meet local community infrastructure needs. The study was also to consider and recommend potential alternatives to this section of the Act.

Lindsay Taylor from Phillips Fox Lawyers with whom all Councillors should be familiar undertook the study. He investigated a number of developer contributions systems used nationally and internationally and recommended a two-tier scheme as a possible alternative – a system of a flat levy charged on all development applications (compulsory and based on the estimated value of the project) and the use of developer agreements which councils could enter into with developers individually on a voluntary basis to provide for local community infrastructure needs.

This study was presented to the State Government last July. No commitment has been given to review Section 94 of the Act at this time nor is any action likely to be taken until after the forthcoming State election. What appears certain, however, is that there is a desire to explore potential alternatives to the current method of levying for and collecting developer contributions.

For this reason staff, with the assistance of the Section 94 Committee, have been progressively reviewing the current Plan on a ‘tidy-up’ basis rather than a complete overhaul. There was little point in continuing with a major rewrite given the State Government’s intentions.

**Status of Plan Review**

The project team has been progressively reviewing all plan components on the following basis:

- Identifying those projects that have been completed and for which funds have been collected and spent (both developer and Council contributions)
  - Identifying those projects which have been completed ahead of time i.e. before all developer contributions have been received and therefore need to remain in the plan for contributions to continue be collected to reimburse Council’s expenditure.
  - Identifying and ranking projects yet to be completed due to a lack of funds collected.
  - Identifying projects which are no longer viable or required due to changing circumstances.
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- Removing anomalies which exist in the plan.
- Considering how various levies are applied and addressing any inconsistencies and inequities in these applications
- Reviewing the method of indexing contribution levies
- Reducing the number of sections in the plan by combining related components e.g. transport components
- Including additional information and a better explanation of the rationale for the application of levies, where required, in response to legal advice.

During the review process it has become apparent that some sections of the Plan have not been performing as expected. A good example is the City Centre Upgrade part which applies to commercial development within the 3(a) zone in the CBD and all residential development throughout Lismore City. Its purpose is to raise developer contributions for works identified in the City Centre Streetscape Study e.g. Magellan Street upgrade along with the other streets in the 'block'. Only \$31,666 in contributions has been generated over the past four years. If this trend continues, the level of contributions raised will have little bearing on the program for the remaining streetscape works as the Magellan Street component cost in the order of \$1.8 million.

In view of this information, the Section 94 Committee has recommended that the City Centre Upgrade part be deleted from the revised Plan.

The issue of indexing of contributions has also been discussed although no final recommendation has been made at this time. Council currently uses the Sydney based Building Price Index – the source of significant criticism from local development and investment groups. There is certainly some justification in this criticism as the Sydney BPI has risen by about 14% over the past two years (the Brisbane BPI has only increased by about 3% over the same period). Many attribute this disproportionate rise to the direct and indirect influence of Olympic Games led construction raising demand for building products. It is therefore argued that its application is not really relevant in the Lismore context.

Other forms of indexing being considered are the use of Implicit Price Deflators (IPD) or possibly a locally produced BPI. A recent survey of NSW Councils has revealed that CPI is by far the most common means of indexing developer contributions. A further report and recommendation on this issue will be presented to the Section 94 Committee for consideration shortly.

The current timetable is for the revised Plan to be ready for Council endorsement for exhibition by the end of June this year.

#### **Performance of the Current Plan**

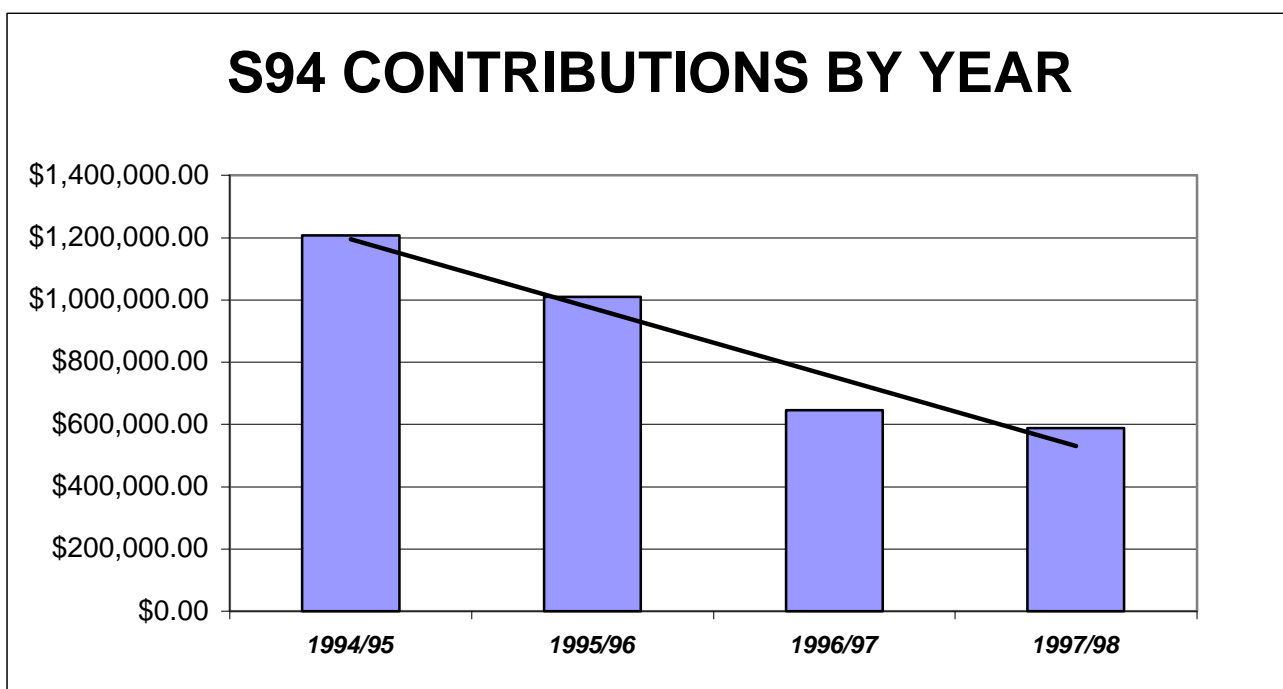
At the time the current plan was being prepared over five years ago Lismore was still experiencing a reasonable rate of average annual growth – estimated at around 2.6% or an additional 1,165 persons per annum. The number of projected dwelling/ET commencements was estimated at around 3% per annum.

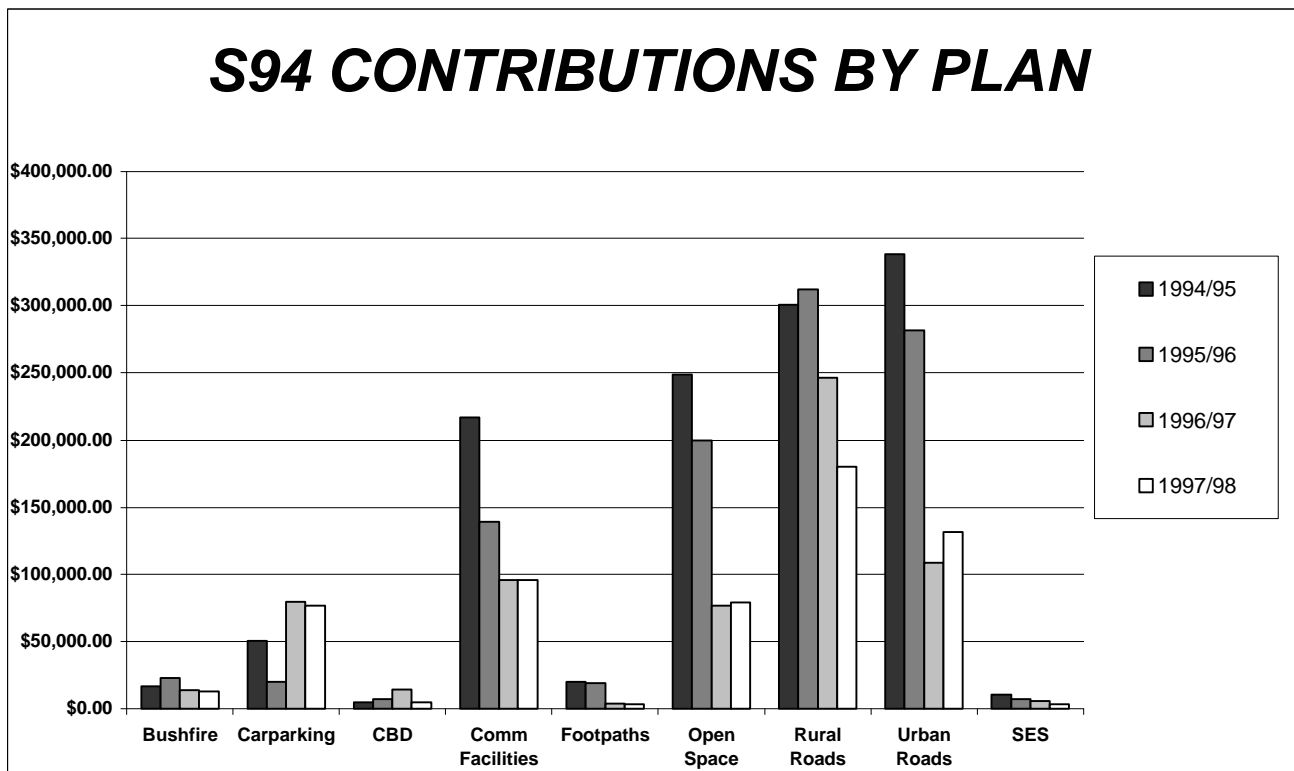
These assumptions, which formed the basis for determining the likely future infrastructure needs of the community, were premised on this rate of growth continuing. As we are now aware, these growth rates no longer exist and more recent projections put the current rate in the order of around 0.6% and falling. Some recently published independent research undertaken by private sources suggests a figure for Lismore for 1997 of -0.1% or negative growth. It is not known how this figure was determined and to which specific area of Lismore it referred.

Section 94 Plan Review Update

Since the mid-1990's contributions raised by the Plan have been in a steady decline. In addition, many of the projects, particularly the big ticket items such as the Goonellabah Aquatic and Leisure Centre, will never be funded to a point where they can be provided within a reasonable time frame – certainly not in accordance with the schedule envisaged in the current Plan.

<b><u>S94 PLANS CONTRIBUTIONS RECEIVED</u></b>					
<b>PLAN</b>	<b>1994/95</b>	<b>1995/96</b>	<b>1996/97</b>	<b>1997/98</b>	<b>TOTAL INCOME PER PLAN</b>
Bushfire	16,937.00	22,822.00	13,913.27	12,924.05	<b>\$66,596.32</b>
Carparking	50,470.00	20,287.48	79,572.52	76,649.70	<b>\$226,979.70</b>
CBD	5,029.00	7,235.00	14,498.00	4,904.04	<b>\$31,666.04</b>
Comm Facilities	217,107.80	139,287.51	95,816.78	95,748.26	<b>\$547,960.35</b>
Footpaths	20,100.90	19,344.50	4,156.16	3,419.02	<b>\$47,020.58</b>
Open Space	248,630.18	199,885.97	76,788.70	79,311.17	<b>\$604,616.02</b>
Rural Roads	300,617.22	312,117.56	246,438.87	180,299.10	<b>\$1,039,472.75</b>
Urban Roads	338,329.00	281,573.20	108,881.13	131,669.57	<b>\$860,452.90</b>
SES	10,365.50	6,930.50	5,795.73	3,449.31	<b>\$26,541.04</b>
<b>TOTAL</b>	<b>\$1,207,586.60</b>	<b>\$1,009,483.72</b>	<b>\$645,861.16</b>	<b>\$588,374.22</b>	<b>\$3,451,305.70</b>





Even in the highest growth area (Urban Catchment East) the better performing parts of the Plan, in terms of contributions collected, have only raised approximately 20-25% of the expected amount. Most are performing well below this range.

If this trend continues, which appears likely in the short term, Council will be unable to deliver the proposed facilities within a reasonable time frame, if at all, or be required to significantly raise its own contribution to compensate for the low collection rate.

A significantly lower growth rate means that the expected demand for facilities should also be in decline. Consequently, the Plan review has focussed on rationalising what current projects ought to remain in the Plan and their priority.

### **Regional comparisons**

Council will recall that at its November, 1998 meeting it considered a report on the analysis of the latest Census data, which included commentary on population migration patterns and a specific comparison of the Goonellabah, Wollongbar and Alstonville areas. There was also comparative information provided on Section 94 and 27 charges levied by Lismore and neighbouring councils for a typical residential allotment (refer attached chart). The figures clearly demonstrated that Lismore's levies were among the highest. Apart from this obvious comparison, what was not specifically calculated but equally notable and detailed below is Lismore's relatively high ratio of levies to land value compared with our regional neighbours.

# LISMORE CITY COUNCIL - Meeting held February 23, 1999

## Section 94 Plan Review Update

	Ballina	Byron	Casino	Kyogle	Lismore	Richmond River	Tweed
Contributions as a % of average land sale price (S94 + S27 levies)	6 – 11%	17 – 21%	23%	16%	<b>29%</b>	14.5%	13%

Our land development costs – particularly the infrastructure charges, are proportionally far higher than our coastal neighbours as a percentage of average allotment prices. On a superficial level at least, this represents a less than competitive base from which to encourage development and investment to the city.

Other statistical data relating to Section 94 levies is provided to compare additional forms of development which attract developer contributions. This information also shows that Lismore is the highest in the region and applies levies for more forms of development than our competitors.

Other Charges	Ballina	Byron	Casino	Kyogle	Lismore	Richmond River	Tweed
Car parking space (CBD) \$	11,766	12,348	3,739	2,100	<b>15,048</b>	-	9,350
Urban Roads \$							
Commercial	-	-	-	-	<b>32/m2</b>	-	N/A
Industrial	-	-	-	-	<b>4/m2</b>	-	N/A
City Centre Upgr. \$							
Residential	-	-	-	-	<b>122/ET</b>	-	-
Commercial	-	-	-	-	<b>19/m2</b>	-	-

The following table reveals that we have been processing fewer development applications each year for the past six years. It should be noted that the earlier years reflect much higher numbers because they include all SEPP 4 applications, building line variations, minor outbuildings, etc. which are no longer recorded as development applications. Never-the less, the trend has been progressively downwards for some time.

Year	92/93	93/94	94/95	95/96	96/97	97/98
DA's lodged	591	465	396	273	239	227
DA \$ value	42,830,336	39,659,973	48,215,016	43,557,577	43,527,266	43,664,872

The figures relating to development application values have remained relatively static despite a decline in application numbers. Unfortunately, the way statistical data is collected does not enable figures to be extracted for actual value of works undertaken. Not all projects proceed to actual development. The data collected for the rural settlement strategy revealed that the supply of available allotments was sufficient for the next decade and beyond based on current demand and land take up. We have many approved subdivision applications which have yet to progress to construction.

Although considerable progress has been made in the area of promoting economic development in the city, there is still widespread anecdotal evidence and a perception that Lismore is 'too expensive' an area within which to invest. While this may not be borne out by factual information in all cases and situations, the data collected in the regional comparisons clearly illustrates that we are not as competitive as the majority of our neighbours in the area of developer contributions.



**The case for a review of our levy fee structure**

The current timing of the review of the Plan presents an ideal opportunity for Council to provide direction to the project team on its expectations with regard to setting an appropriate levy reduction target. At this time, work on the review has included ranking uncompleted projects and listing the remaining as completed. With a specific target to focus on staff and the Section 94 Committee will be in a better position to evaluate which projects ought to remain in the Plan as a priority and at what value.

While there can be no guarantee that reducing Section 94 levies will act as a catalyst for new development, the current trend of levy increases outpacing growth in land values and local development costs needs to be arrested and reversed. This trend is having a negative impact on the viability of existing approved but inactivated projects and new proposals.

The approach required to reverse this trend needs to be pursued on two fronts – bringing the levies back to a more competitive level and rationalising the projects in the Plan to an achievable and realistic number relative to the current level of growth.

**Levy Reduction Target**

Given the foregoing information and comparative data we have been able to obtain from other councils, it is recommended that an overall levy reduction target of 40% is not unreasonable. This will bring Section 94 levies down to a level of \$4,923/allotment compared with the current figure of \$8,221. Although this is still higher than many other councils it is much more competitive and will still preserve the integrity of the Section 94 Plan and enable a reasonable level of contributions to be collected for the projects that ultimately remain in the Plan.

Council should note that these amounts relate only to Section 94 levies. Water and Sewerage headworks charges also make up a significant part of overall land development costs (currently in the order of \$7,645/allotment in Urban Catchment East). Council may also wish to consider whether there is scope to reduce these charges.

By using a 40% levy reduction target for all components of the Section 94 Plan all parts will be maintained, albeit at a reduced scale. This approach is fair and equitable and in keeping with the lower demand for new community infrastructure in the context of our current and forecast growth rates.

Further reductions will also be achieved if Council concurs with the Section 94 Committee's recommendation to delete the City Centre Upgrading part in the reviewed Plan.

**Retrospective Application**

If Council is prepared to accept the recommendation to reduce levies it also needs to consider how it is to apply to development applications already approved but not activated or where levies have yet to be paid (e.g. where a bank guarantee or other form of security is in place for a given time).

To encourage applicants to proceed with their approved projects Council could offer to review the levies and apply the revised rates following the lodgement and processing of Section 96 applications. This same approach could be used in situations where outstanding levies still apply. Confirmation

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Section 94 Plan Review Update

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will need to be received that this approach is legally possible. There may also be a simpler solution, which can achieve the same result. At the time of preparation of this report information was still being sought on other alternatives.

It is not recommended that applicants, who have already paid their levies, be given the opportunity to be reimbursed the difference between the paid amount and what may be a lower amount under the revised Plan. This could lead to funding problems if Council, in accordance with the Section 94 Plan, has already expended the contribution.

Expenditure Accountant's Comments

There is no doubt that all Council's Sec 94 Plants are in need of review, primarily to reflect the change in affordability from the Developer's point of view, the community demands in general and Council's financial position.

In relation to Council's financial position, the reality is that, if contributions from developers were at the levels anticipated in the plans, it would be impossible for Council to meeting its obligations given the existing circumstances. Rather than reviewing the plans because of the cost of development, we would be doing so on the basis of the cost to Council.

While the purpose of this review is to dramatically improve our competitiveness from a cost perspective, the opportunity should not be lost to realistically appraise Council's ability to fund its contributions to the plans as well. The target should be that our annual contribution to the plans must be affordable within our existing financial constraints.

Public Consultations

Public consultations will take place with the formal exhibition of the revised Section 94 Plan later this year.

Other Group Comments

**Group Manager City Works - Bill Moorehouse**

1. The Whole Section 94 Contribution system is urgently in need of a substantial overhaul.
2. The decision to use BPI irrespective of the real cost increases is not a sound practice and has resulted in charges far exceeding the real cost in some areas.
3. Simply reducing the Section 94 Charges does not reduce the need for the service or facility. Council will have to provide additional funds from its own resources where there is a clear need for the service or facility.

This will have to be carefully considered in the 1999/2000 Management Plan and areas identified where these needs will require Council to allocate additional funding.

Overall I am very pleased to see that the need to review the Section 94 Plan and Charges has been recognised and Council intends to implement some major changes aimed at reducing the cost of development in the Lismore Local Government Area.

### **Water and Waste Water Comments**

Council's Water and Sewerage Section 64 levy plans are currently under review. Indications are that there will be a reduction in the water levies and sewer levies will remain approximately the same because of recent capital works (sewerage treatment plant constructions).

Should Council wish to reduce the levies charged to developers, they would need to be funded from other sections of Water and Sewerage budget. Any such move would need to be transparent so that the community at large would be aware that they are subsidising developer costs.

The cost of water and sewer infrastructure for development cannot be avoided.

### **Manager-Economic Development**

Lismore, as a City in recent years, has been rapidly approaching the need to make the important decision as recommended by this report.

The most important issue is the ability to provide realistic infrastructure within a contribution system which is competitive in the region's market.

Lismore's current Section 94 contribution plan is not competitive and this is reflected in the decline of investment (particularly residential) in the Lismore Local Government Area.

Council must undertake reform and show leadership in order to assist stimulation of the local market and encourage investment.

Lismore has the potential to provide affordable, quality residential developments which are not available on the coastal fringe. Such development will also ensure supporting businesses and infrastructure will remain based in our City (eg construction material suppliers, building professionals, tradespersons, fitout suppliers etc).

### **Conclusion**

There is ample evidence that Council's Section 94 charges have been increasing at a rate which is not sustainable if Council is to continue to attract investment to the city. It is also fair to say that the assumptions used as the basis for the current Plan need to be reviewed in our current and projected low growth phase. We have been unable to deliver many of the community infrastructure projects in the current Plan, perhaps because it was too ambitious or because levies have increased to a point where the impost on new development is too great. Whatever the reasons, it is now necessary to tailor it to today's economic climate and community needs.

Council has already made a major commitment to promoting economic development through a number of recent initiatives and should regard a review of its developer contributions as an integral part of this process.

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The recommended levy reduction target of 40% will hopefully send a positive message to potential developers and investors that Council is serious about attracting investment to the city.

Recommendation (PLA14)

Council resolve that:

- 1 The revised Section 94 Plan to be presented to Council achieves a levy reduction target of 40% across all Plan components.
- 2 A further report be presented to Council which outlines possible options for revised levies to be applied on a retrospective basis under circumstances outlined in the report.
- 3 That a report be presented to Council on the outcome of the current review of Water and Sewerage Section 64 Levies together with advice as to the competitiveness of such levies.

Subject/File No: NOROC - THREE YEAR STRATEGIC PLAN  
(CMC/LM: 98-20849: S381)

Prepared By: Group Manager-Corporate & Community Services

Reason: Request from NOROC

Objective: Obtain Council's ongoing support for NOROC

Management Plan Activity: Administration - Councillors

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Background:

A copy of NOROC's three year Strategic Plan is attached separately for the information of Councillors.

NOROC plays an active role in the region's development and is able to deliver important financial and social benefits to its member councils. Key financial issues included in the Plan are the rejoining of Tweed, Byron and Ballina Councils and the raising of additional funds in 2000/2001.

NOROC is making presentations to the eligible LGA's with a view to obtaining ongoing support and commitment, as well as feedback on the Plan.

Arrangements have been made for Mr Peter O'Connor to make a presentation to the Council during the course of the meeting.

Expenditure Accountant's Comments

Firstly, NOROC should be commended on preparing a three year plan. This provides better information to decision makers on what outcomes are anticipated and a basis to assess performance.

The NOROC Three Year Strategic Plan is for the financial period of 1998/2001. The commitment required from Council is to June 30, 2001. Consequently, this commitment will impact on the 1999/2000 & 2000/2001 budgets.

In 1998/1999, our contribution was \$12,923.95. It is proposed for 1999/2000 that this will not be increased. This proposal is dependent on:

- a) expenditure being contained to \$152,000,
- b) Ballina, Byron & Tweed Council's rejoining NOROC, and
- c) income from 'external project management'.

If these key financial components are not achieved, it is likely that there would be pressure on our contribution to be increased.

It is suggested that the proposal be supported. Under the constitution member councils can review their participation at any time subject to 12 months written notice being given.

Public Consultations

Not required.

General Manager's Comments

Over the past 12-18 months NOROC has undergone a complete review of its structure and operations and significant changes to its constitution have ensued.

These changes ensure that NOROC effectively maintains its relevance as an advocate for constituent councils in a rapidly changing local government environment which demands effective inter-council/government communication and co-operation. NOROC is ideally placed to facilitate this interaction.

Whilst the departure of Tweed, Ballina and Byron Councils was a setback for NOROC, we must not lose sight of the bigger picture and look ahead to a less parochial approach to regional issues, and in particular, regional economic development. Lismore Council, as the largest constituent member of NOROC, must show leadership in making a strong commitment to these ideals.

NOROC demonstrates an increasing level of professionalism and responsiveness and for the first time in its history has prepared a 3 Year Strategic Plan which provides an incisive basis for its continued operation.

In the future councils will be judged by their ability to work together in the regional interest. By proactively supporting NOROC and participating in its strategic programs, Lismore Council will be acting responsibly and in the long term community interest.

Other Group Comments

Not required.

Conclusion

Feedback to the Strategic Plan should be provided to Mr O'Connor following the conclusion of his presentation.

Recommendation (COR08)

That Council advise NOROC of its ongoing support and commitment and endorsement of the Three Year Strategic Plan.

Subject/File No: **LISMORE AIRPORT – NEW TERMINAL, TAXIWAY AND CARPARK – Selection of Tenderers**

Prepared By: Project Manager – Wes Johnstone

Reason: Council's approval is required for the selection of three tenderers

Objective: To Select three consortiums who will be invited to tender for the Design and Construction of the Project

Management Plan Activity: Aerodrome Operations

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### Background:

At its Meeting of 6 October 1998, Council resolved to tender the new Lismore Airport Terminal Project using three selected tenderers. The purpose of this report is to recommend that Council invite three selected consortiums to submit tenders on a design and construction basis.

### Information

Registrations of Interest were invited from suitably experienced consortiums/organisations to undertake the design and construction of the proposed Lismore Airport Development. Registrations closed on 24 November 1998 and twenty one (21) were received.

A selection process was undertaken which complied with the *Local Government (Tendering) Regulation 1993*, Part 2, Clause 9.(3), and which requires the registrations to be short listed according to:

- a) the experience of the applicant in fulfilling the requirements or similar contracts
- b) the capacity of the applicants to fulfil the proposed contract

Each consortium was firstly assessed to ensure that they listed the key personnel requested in the documentation for registrations of interest.

The second selection criteria adopted in accordance with (a) above was "*Experience with commercial building development in the public domain, including civil works*".

As a major part of this project involves the design and construction of a functional and aesthetically pleasing airport terminal building, the third selection criteria set in accordance with (a) above was: "*The nominated architectural personnel having experience with airport developments*".

Following the application of these criteria, a list of six (6) applicants remained. Each of these applicants was then ranked on the four major functional areas considered relevant to this project, being:-

- Principal Contractor
- Architect
- Builder
- Civil Engineer

The matters considered when ranking each of the functions were: -

- Principal Contractor** \* capacity to fulfil the proposed contract based on interviews with referees
- Architect** \* degree of Airport experience
- Builder** \* quality of work, adherence to programs and treatment of variations – based on interviews with referees
- \* Council’s experience with the builder
- Engineer** \* experience in pavement designs
- \* experience in conditions similar to those on site
- \* structural engineering experience

The rankings are listed in the following table:-

	PRINCIPAL	ARCHITECT	BUILDER	ENGINEER	TOTAL	RANKING
Greg Clarke Building	2.10	1.50	2.50	2.50	8.60	2
Cordukes	1.85	1.50	1.50	2.50	7.35	6
ADCO	1.90	1.50	2.00	2.50	7.90	5
McMaster	2.15	2.25	2.00	2.00	8.40	4
Mainbrace	2.05	2.50	2.00	2.00	8.55	3
Stafford, Moore & Farrington	2.20	2.75	2.50	1.50	8.95	1

After completing the selection process, the priority ranking of the six (6) remaining applicants became:-

1. Stafford, Moore & Farrington
  2. Greg Clark Building Pty Ltd
  3. Mainbrace Constructions
  4. McMaster Queensland Pty Ltd
  5. ADCO Constructions Pty Ltd
  6. Cordukes Ltd
-



Should Council adopt the following recommendation regarding the invitation of tenders, the consortiums/organisations who registered an interest will be advised of the results of the selection process. However, invitations to tender will not be issued until access to the site is resolved with Attori.

#### Group Manager Business and Enterprise Comments

The registration of interest process has identified six (6) applicants with demonstrated capacity to undertake construction of the new terminal and associated civil works. The vigorous procedures employed have ranked these six so that a short list can be determined. Should the recommendation of this report, with which I concur, be adopted, the process of selecting and engaging a final tenderer can commence and the agreed timescales can be met.

#### Public Consultation

Not required

#### Conclusion

The response to the invitation for expressions of interest was excellent and submissions were received from a number of consortiums/organisations with successful experience in designing and constructing similar projects. The three (3) highest ranked applicants should provide a facility which meets all of Council's objectives for the proposed airport development.

#### Recommendation

1. That the three (3) highest ranked consortiums/organisations:-  
Stafford, Moore & Farrington  
Greg Clark Building Pty Ltd, and  
Mainbrace Constructions,  
be invited to tender for the design and construction of the Lismore Airport Development.
2. That, should any of the three highest ranked consortiums/organisations not accept the invitation to tender, the other three consortiums/organisations be invited to tender, in order of priority.

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Subject/File No:	DEVELOPMENT CONTROL PLAN NO. 28 - SUBDIVISIONS (S547)
Prepared By:	Manager Strategic Planning - Helen Manning
Reason:	To advise Council of the outcome of exhibition of the Development Control Plan
Objective:	Council's adoption of the Development Control Plan
Management Plan Activity:	Strategic Planning

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Background:

Development Control Plan No. 28 - Subdivision is a comprehensive guide for all forms of subdivision in Lismore LGA. It includes all current requirements, introduces up to date requirements for energy efficiency, water quality management, pedestrian and cycle facilities and public transport. Following exhibition it was updated to comply with the provisions of the Environmental Planning & Assessment Amendment Act.

The DCP was considered by the Steering Committee on February 3, 1999. The Committee recommended some minor changes to the text and to a diagram. These changes have been incorporated into the DCP now recommended for adoption.

The DCP is provided separately with the attachments to this Business Paper. Following adoption by Council it will comprise the third volume of the Development Manual and a colour coded copy will be provided to each Councillor.

**Contents of Draft DCP 28 - Subdivision**

Although at first glance the size of the DCP appears daunting, it is internally organised so that developers or the public need refer only to the section which meets their needs. The final document will be printed on different coloured paper for easy reference to each section.

Contents of the DCP are as follows:

**Part 1: An introductory section which sets out the aims and objectives, and the statutory framework for subdivision applicants.**

The aims and objectives of the Draft DCP are as follows:

*Aims*

1. The provision of comprehensive planning guidelines for subdivision of land in the City of Lismore
  2. The enhancement of individual and community wellbeing by following a path of subdivision development that complies with the principles of ecologically sustainable development: safeguarding the welfare of future generations, providing for equity within and between generations, protecting biological diversity, maintaining essential ecological processes and practising precautionary environmental management.
-

3. The provision of well designed, cost effective and efficient infrastructure which minimises long term maintenance.

*Objectives*

1. To facilitate subdivision which is sustainable and appropriate for its intended use.
2. To ensure subdivisions are provided with the necessary services required by Council.
3. To ensure subdivisions are designed in accordance with the best engineering and planning practices, meeting Council's minimum requirements to improve levels of amenity, accessibility and safety.
4. To encourage the use of innovative planning, design and engineering practices.
5. To provide for subdivisions which recognise development industry and community expectations, environmental constraints and the circumstances unique to the City of Lismore.
6. To maximise the efficient use of land and provision of infrastructure that avoids adverse environmental impacts.

**Part 2: Urban Subdivision, including residential, commercial and industrial subdivision requirements.**

**Part 3: Rural Subdivision, including village residential and commercial, rural residential and rural and special use subdivision.**

Parts 2 and 3 include performance requirements in regard to design, lot layouts, major and local road networks, pedestrian and cyclist facilities, public transport, public open space, street design and construction, stormwater drainage and water quality management, flooding, parking, buffers and bushfire protection. Suggested solutions for meeting each performance criteria are also included.

**Part 4: Definitions, references and appendices.**

**Part 5: Check lists for applications for each form of subdivision.**

**Amendments to exhibited Draft DCP**

Copies of both submissions are in the attachments to the Business Paper.

*Submission 1:*

- (a) congratulates Council on the comprehensive nature of the DCP;
  - (b) requests amendment of the minimum size of industrial subdivision from 2000 square metres to 1000 square metres, as enquiries received by the developers of the Airport Industrial Estate indicate that 2000 square metres is far too large.
-

Comment: It is important to allow flexibility so as to encourage a range of development, and therefore the draft DCP has been amended to require an average lot size of 1500 sq.m. in subdivision of industrial estates, with an absolute minimum area of 1000 sq.m.

Submission 2:

- (a) congratulates Council on the time and effort put into a much needed document;
- (b) S.5.3 - requests this section be amended to allow a wider range of specialist input from surveyors.

Comment: agreed, DCP amended accordingly. Statement added requiring all nominated professionals to be qualified or accredited in the appropriate field for the range of issues being addressed.

- (c) Queries the requirement for site inspections by Council officers and suggests that it is not required for minor development.

Comment: Section 5.6 Site Inspections has been altered by the inclusion of 'accredited certifiers' to undertake inspections, in compliance with the EPAA Act.

- (d) Section 5.8.3 requires the submission to Council of a computerised copy of plans for engineering or construction works. The objection states that:

*Any digital data submitted to Council will be subject to copyright and the use, manipulation or on-sale of any data supplied to Council will be subject to copyright. All copyright data will be scrutinised by CAL and royalties will be collected by CAL under an audit process.*

Comment: Manager, Subdivisions, has responded that information regarding development consent is to be freely available, although is not to be sold for gain. Section 109 of the EPA Amendment Regulation 1997 requires Council to keep records available for public inspection. Therefore the submission comment is not agreed with and no change has been made to the Draft DCP.

- (e) Why is it necessary to increase the development costs by requesting a certified valuer to supply a valuation of assets. The contract prices represent the "true" value of the asset.  
(Section 5.5.8.3)

Comment: The draft has been amended in response by requiring a certified valuer only in relation to real property valuation and in relation to any land or other assets to be transferred to Council.

- (f) Section 5.9.5 - Early release of Plans.  
What level of guarantee offered to the developer that the Council will perform their approval duties within a reasonable time frame.

Comment: This section is a standard requirement taken from a DUAP circular and the submission offers no basis for changing it.

(g) 5.9.2 - Maintenance Period and Bonds

A bonded maintenance period of 12 months applies from the date the bond is lodged with Council (usually at the time the linen plan is released). The bond is to cover the repair of any defects (faulty material or workmanship) which may arise in the period, if not rectified by the applicant to the satisfaction of Council. The bond or unexpended funds are refunded after the 12 month period.

The objection argues that:

*The maintenance bond should only cover those items which are constructed under the approval. It is unfair to expect the developer / contractor to be financially responsible for circumstances outside their control. Council should look to introduce a penalty system for repeated offences particularly with service authorities and their contractors.*

Comment: Servicing authorities are contracted to the developer, not to Council, so Council has no role as suggested.

(h) 7.8 & 10.7 - Subdivision of Buildings

Wording appears to breach Strata Titles Act

Comment: Draft DCP has been amended to clarify that body corporate activities are limited to those legally permissible. This amendment is repeated in all subsequent sections relating to Strata Title subdivision.

(i) 12.3.1 - Road Design

An error in table numbering is identified.

Comment: Error corrected.

(j) 12.5.2 (4) - Future Building Envelopes

*The imposition of building envelopes is considered to restrict the siting of dwellings and can be seen to be an impediment to a potential purchaser's choice. This requirement, in my opinion, contradicts the desired objective of the LEP in that it limits choice. Whilst it is appreciated that it may be possible to change the site of the building envelope once approved, we know from experience that this exercise can be onerous, costly, time-consuming, and extremely bureaucratic.*

Comment: This requirement has been deleted, and instead performance criteria are inserted regarding area for effluent disposal and slope.

(k) Request that:

*the DCP should be subjected to an industry wide workshop outlining the total concept and the proposed workings. The workshop should be attended by all members of the development sector - finance, sales, developer, consultants, construction and councillors, as well as the general public.*

Comment: This suggestion is not agreed with. Given the low number of submissions and the lack of technical enquiries during exhibition, there is obviously not a high level of interest in the draft DCP, and the organisation of a workshop for only one objector would be a significant waste of resources.

- (1) *The DCP should also be subjected to a 12 month trial introductory period before final adoption. This introductory period would greatly assist in the fine tuning of the controls to ensure that the adopted DCP would be appropriate, applicable, functional and most importantly - respected by the industry.*

Comment: It is not legally possible to apply the DCP on a trial basis: it must be adopted by Council in order to apply at all. Instead, it will be recommended that Council adopt the amended DCP but that its operation be revised after 12 months, and adjustments made if necessary. Further amendments of the DCP will also be due at that time to reflect the provisions for exempt and complying development which should have been introduced into the LEP by that time.

#### Changes required by Subdivision Section

Various minor changes have been made to:

- reflect current engineering requirements for road design and construction;
- correct errors in diagrams, clarify the purpose of some diagrams and remove others that were superfluous;
- require that all stormwater systems be designed to discharge appropriate water volume, velocity and quantity to an adequate legal point of discharge.

#### Changes required by Water and Sewer Section

- clarify the requirement in relation to urban subdivision that lot layouts be designed to ensure that effluent from each lot can gravitate into the sewer
- Include requirements for adequate water supply and sewerage network to be added to the checklist at the back of the DCP.

#### Other changes

- Note the subdivision requirements of DCP 35 Caniaba Village in Section 10 - Village Subdivision.
- Introduce consistency with the requirements of the EP & A Assessment Act in terms of new sections of the Act and Regulations and changes made to the Local Government Act.

#### Manager - Financial Services Comments

Not requested.

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### Public Consultations

Prior to public exhibition the draft DCP was hand delivered to all developers and consultants listed as subscribers to Council's Development Manual, together with a letter explaining the process and seeking comments. The DCP was placed on exhibition in Council's Administration Building for two months, together with a notice giving the names of individual staff members who could assist with enquiries. Counter staff reported that a number of people viewed the draft DCP and purchased copies; however no enquiries were made of technical staff.

Only two submissions were received from the public by the end of the exhibition period. In addition to changes made on the basis of these submissions, Council's Subdivision and Water and Sewerage Sections have taken the opportunity to review the draft and further improve it for consistency with current engineering practices.

Unfortunately the amended EP & A Act came into force during the exhibition period, requiring further amendments for consistency with the provisions of that Act.

### Views of Steering Committee:

The Committee met on February 3, 1999 to consider the amendments proposed to the exhibited DCP. The Committee agreed to the alterations made on the basis of submissions, to those required by Subdivision and Water and Sewer Section, and to those consequent upon the Environmental Planning and Assessment Amendment Act. Committee members suggested some minor improvements to wording in some sections, and these have been included in the DCP provided to Councillors. A record of the meeting is in the Attachments.

The Committee was very pleased with the Development Control Plan and complimented those responsible for its production, being consultants Balanced Systems and a project team comprising staff representatives from Subdivision, Strategic Planning, Water and Sewer, Design Services and Roads and Infrastructure.

The Steering Committee:

1. endorsed the amended draft DCP 28 - Subdivision with minor amendments noted above, for submission to Council for adoption, with review of its operation after 12 months;
2. recommended to Council that the amount of \$3000 be included in the next Budget to allow engagement of a consultant to carry out the review; and
3. agreed that as its role is now completed the Steering Committee should be disbanded.

The committee has met to consider the draft DCP prior to exhibition, and again to consider submissions and alterations. It has therefore completed its role and can now be disbanded. The twelve months trial period recommended for the DCP will end after the local government elections and the wishes of a new Council in regard to committees cannot be predicted.

**Other Group Comments:**

As the DCP was prepared with the input of various relevant sections of Council, further views were not sought for this report.

Conclusion

Development Control Plan 28 - Subdivision has been endorsed by the staff project team and by the Subdivision DCP Steering Committee. Its preparation has followed all requirements of the EP & A Act including public exhibition and it is now suitable for adoption by Council.

Recommendation (PLA7)

That Council:

1. adopt DCP 28 Subdivision,
2. review the operation of the DCP after twelve (12) months and include the amount of \$3,000 in the next Budget to allow engagement of a consultant to carry out this review,
3. agree to the disbandment of the Subdivision DCP (Triple R) Steering Committee.



Subject/File No: DRAFT ACID SULFATE SOILS DCP & LEP  
(S714, S715, S235/3)

Prepared By: Strategic Planner - Jemina Dunn

Reason: To advise Council of the outcome of consultation regarding proposed Draft Acid Sulphate Soils DCP & LEP.

Objective: To obtain Council's resolution to proceed with consultation.

Management Plan Activity: Strategic Planning

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Background:

Councillors will recall considering initiation of a draft DCP and LEP regarding Acid Sulfate Soils at their meeting of September 15, 1998. On this occasion it was resolved a copy of the report and proposed LEP Amendment be forwarded to the ASSMAC Committee, ASSMAC Technical Committee, Richmond River County Council, NSW Cane Growers Association and Richmond River Catchment Committee for their comments. Council also requested that when these comments were received they be incorporated into a report which also included comments on Development Application fees prior to formal exhibition of the draft policy.

In accordance with Council's resolution copies of both the draft LEP and DCP and the associated Council report were distributed in early December 1998. A number of telephone responses were received with information and comments later confirmed by formal submission. In this regard to date, submissions have been received from the Broadwater Sugar Milling Co-operative, MBT Lawyers on behalf of the Richmond River and Rous County Councils and the Department of Urban Affairs and Planning's Grafton Office on behalf of ASSMAC. Copies of submissions received are attached as Appendix 1 in the Attachments to this report.

As Councillors will recall the draft DCP and LEP proposed were based on ASSMAC's model LEP and DCP documents previously adopted by Hastings Council and also currently being considered by Richmond River and Tweed Councils. The new provisions propose that Development Consent be required for a variety of activities in areas identified on Department of Land and Water Conservation (DLAWC) Acid Sulfate Soil Mapping as being affected by Acid Sulfate Soils.

In summary, as anticipated, several bodies, including Rous and Richmond River County Councils and the Broadwater Sugar Milling Co-operative have submitted responses requesting amendments to the policy exempting them from any requirement for development consent. Preliminary discussions with the Department of Urban Affairs and Planning (DUAP) indicate that such amendments would not be supported by the Minister, however some minor alterations have been suggested which provide some concessions to allow works without consent in emergency situations.

Specifically, Richmond River County Council has requested all maintenance works, including the cleaning and enlarging of drains, be exempted from the consent requirement on the basis of increased administrative workload which would delay necessary works and otherwise impede day to day functioning of the County Council. Similarly the Sugar Milling Co-operative has estimated that up to one hundred (100) Development Applications would need to be prepared by farmer members annually under such a policy.

They have advised that negotiations are currently underway with ASSMAC and Tweed Council to obtain exemption in favour of self-regulation administered by the Co-operative but policed by Council. Outcome of these discussions should be known in mid-late February.

During consultation it has become apparent that many Councils regionally are facing the same issues regarding introduction of ASS policy. In this regard DUAP has suggested that rather than being dealt with on a piecemeal basis it might be more prudent for a regional workshop to be held regarding the matter to allow discussion with all relevant and interested parties to negotiate and develop a satisfactory regional policy.

#### Manager - Financial Services Comments

Not required for this report.

#### Public Consultations

Previously discussed. Submissions from consultation are attached as Appendix 1 in the attachments to this report.

#### Other Group Comments

As consultation with stakeholders has not progressed regarding this matter the Strategic Planning Section has not yet liaised with other Council Departments to provide the requested comments regarding Development Application fees. Discussions are currently underway and comments will be included in a future report to Council.

#### Conclusion

Considering the level of opposition to Council's current draft policies, DUAP's preferred approach of holding a regional workshop to resolve the issue appears appropriate and is recommended. Whilst such an option may initially delay drafting of formal draft documents for exhibition, formulation of policy mutually acceptable to Council, DUAP, ASSMAC and local industry bodies is likely to be more readily achieved by the proposed process. It is also likely to result in a quicker resolution of the matter in the long term rather than the alternative of Council "going it alone" and attempting negotiation with stakeholders on an individual basis.

As noted by DUAP, the majority of activities resulting in a need for introduction of the policies currently being considered, including activities ancillary to farming and flood mitigation (drainage works etc.), result in production of acid sulfate soils. Any exemption of certain land or organisations from the policy would be largely counterproductive rendering introduction of the policy ineffective.

#### Recommendation (PLA13)

That a request be forwarded to DUAP that it organise a workshop to assist in development of a regional draft model LEP and DCP ASS policy, acceptable to ASSMAC, Richmond and Rous County Councils and relevant industry bodies.

Subject/File No: DRUG USAGE AND DISPOSAL  
(TK: S226)

Prepared By: Environmental Health Officer - Tony Kohlenberg

Reason: To advise Council of the results of the six month needle bin trial.

Objective: To obtain Council's directive as a result of the needle bin trial.

Management Plan Activity: Environmental Health

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Background:

Previous Council Resolution:

Council at the meeting of June 2, 1998, adopted recommendations for:

- Approval of a six month trial of needle bin installations within the toilet cubicles of the Clyde Campbell carpark.
- That after evaluation of the trial by Council's Environmental Health Section and the Department of Health, a further report be submitted to Council as to the viability of:
  - a) permanently installing the bins within the Clyde Campbell Carpark; and
  - b) installing needle bins in other public toilet facilities.

**Objectives**

The objectives of the trial were to:

- Reduce the number of needles unsafely discarded in the Clyde Campbell Carpark toilet block.
- Reduce the risk of needle stick injuries to staff, contractors and the community.

**Evaluation Measures**

Evaluation measures for the trial included:

- Number of needles disposed of in the bins
- Number of needles unsafely disposed of in the toilet block
- Vandalism to the bins and toilet block
- Community comments and complaints
- Insurance claims
- Medical expenses

**Introduction Of Needle Bin Trial**

The six month trial was commenced on the August 1, 1998, with the installation of 3 x 1.4lt needle bins in a cubicle of the male and female toilets and within the disabled toilet of the Clyde Campbell carpark toilet facility. The needle bin container consists of an unobtrusive metal rectangular cylinder (10cm<sup>2</sup> x 25cm) which houses a plastic disposable sharps container. The bins are secured from the public by padlock. The sharps containers are replaced when necessary.

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## Drug Usage and Disposal

Joint inspections of the toilet facility and needle bins were conducted weekly by Council's Environmental Health staff and the Northern Rivers health service Needle Exchange Service staff for an initial four week period. After this period weekly inspections were conducted by Council staff only.

The purpose of the inspections was to evaluate the trial in accordance with the evaluation criteria and where necessary exchange sharps containers with new containers. The used containers were deposited with the Needle Exchange Service.

**Evaluation of the Trial-Environmental Health**

The following table indicates the number of syringes deposited in the needle bins at the Clyde Campbell Carpark during the trial period. Evaluation of the trial in accordance with the evaluation criteria is as follows;

- Number of needles disposed of in bins.

Date	Male	Female	Disabled	Total
August 7	0	0	7	7
August 14	1	1	0	2
August 21	1	50(tips)*	1	2
August 28	0	1	6	7
September 4	2	1	1	4
September 11	3	2	0	5
September 25	0	0	0	0
October 7	0	0	1	1
October 16	2	1	0	3
October 23	0	0	2	2
October 30	0	0	0	0
November 5	0	0	2	2
November 13	3	0	2	5
November 20	1	2	3	6
December 14	2	0	4	6
December 21	2	2	2	6
January 8	2	0	Full**(20)	22
January 15	5	0	0	5
January 22	1	3	0	4
January 29	0	0	2	2
February 5	0	0	1	1

\* 50 needle tips deposited in bin from an outside source.

\*\* needle bin not emptied over 2 week period. Large quantity possibly deposited from outside source.

Drug Usage and Disposal

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- Number of needles unsafely disposed of in toilet block.

Council's cleaning contractor has reported that prior to the installation of the needle bins syringes were commonly found on the floors and in various locations throughout the toilet facility. Since the commencement of the trial the number of syringes found has reduced to a level whereby they are very rarely found on the floor or around the facility ( approx 2 or 3 over the trial period). However, it has been observed that some syringes are still being deposited in the waste bins within the toilets.

Council's other public toilets appear not to be subject to improper syringe disposal as syringes are very rarely found in these facilities.

- Vandalism to the bins and toilet block.  
Council's cleaning contractor's daily inspections has not identified any escalation in vandalism or graffiti of the bins or toilet facility since installation of the bins. Council and the Northern Rivers Health Service staff inspections also has not revealed any vandalism or graffiti to the facility.
- Community comments and complaint.  
Signage is provided on each bin as follows "*Enquires regarding this bin trial ph:6625 0500*".

To date only one telephone complaint has been received by Council from a resident who expressed concern that drug addicts were sharing the public toilets and that the installation of the bins would attract drug addicts to the toilets.

While limited community comment should not be taken as community endorsement of the bin installations, it does indicate that there has not been notable community outcry or backlash against the installations.

- Insurance Claims.  
Council has not received any claims for needle related injuries prior to or during the trial period.
- Medical expenses  
Council has not received any medical expense claim for needle related injuries by Council staff as a result of the installation of the needle bins .

**Evaluation Comment**

***Environmental Health***

The trial results indicate that the needle bins are being utilised by users in a satisfactory manner. This is evident by the negligible number of syringes found on the floor, foyer and cubicles of the toilets since the installation of the needle bins. The number of syringes deposited in the bins indicates that they serve an adequate purpose as a collection receptacle in a toilet facility which in the past presented a substantial community risk due to unsafely discarded syringes.

The number of syringes deposited in the collection receptacle can be considered low (average 4 per week). This indicates the number of syringes disposed of in a manner that now does not present a risk to the community. Using this indicator it can be assumed that the introduction of needle bins has not been an attraction to encourage additional drug users to the facility. In fact the reverse may apply in that some users may have been deterred from frequenting the facility for lack of privacy, fear of hidden cameras and the like.

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Drug Usage and Disposal

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The installation of needle bins has provided a satisfactory means for users to dispose of syringes, thereby reducing the number of needles unsafely discarded and reducing the risk of needle stick injuries to staff, contractors and the community.

***Northern Rivers Health Service***

The results of the six month trial of needle disposal bins in the Clyde Campbell toilet block clearly indicates the effectiveness of needle bins in reducing the incidence of discarded syringes. Over the six month trial period approximately eighty syringes were collected in the needle disposal bins. No syringes were found unsafely discarded within the toilet block.

There were no adverse outcomes with respect to the other evaluation measures of the trial.

Based on the outcome of the trial the Northern Rivers Area Health Service recommends that Council:

- Permanently install needle disposal bins in the Clyde Campbell toilet block;
- Install needle disposal bins in other public toilet blocks in the Lismore City Council area that are identified as a problem location for discarded syringes.

In continuing its commitment to work with Council on this issue, Northern Rivers Area Health Services, through the Needle Syringe Program, will:

- Provide ongoing education and information to Council staff and contractors on safe handling of needles and syringes;
- Dispose of waste collected in the needle disposal bins at the Clyde Campbell toilet block.

**Where to from Here**

Should Council decide to leave the needle bins installed as permanent installations the following requirements will need to be met by Council:

- Council's cleaning contractor will be required to service the needle bins. This would necessitate the inspection of the three bins on a daily basis(a few minutes only) and where necessary replace the sharps container. During the six month trial period a total of six sharps containers only were replaced.
- The cleaning contractor will be required to deposit the used sharps container with the Northern Rivers Health Service in Uralba Street, Lismore.
- Council will be required to fund the purchase of sharps containers. A worse case scenario would be for each container to be emptied monthly ie (3x12=36 containers per year). Containers may be purchased for \$2.70 each. Total cost for bin replacement will be approximately \$100.

Manager - Financial Services Comments

The cost of installing and servicing permanent needle bins within the Clyde Campbell Carpark Toilet facility is not considered prohibitive.

Best estimate suggest an annual cost of:	Sharps Containers	\$100.00
	Contract Deliver to NRHS	\$360.00
	Total Cost	\$460.00

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Other Group Comments

**Manager-Property Services Comments**

I support the recommendation as noted. However should Council approve this arrangement there are several things that will need to be altered.

Firstly, the cleaning of the toilets is currently undertaken by a contractor. The contractor may well wish to charge a variation to his weekly account for this additional service. In fairness he/she should be given the opportunity to do so. Whilst it is not expected that the costs would be high it could amount to several hundred dollars per annum and increase each time a new toilet block is added to the program. This needs to be taken into consideration and the budget increased accordingly, once a price has been agreed upon. I do not believe there is any cost benefit by getting existing field staff to undertake this additional work.

Secondly there is still the threat that the contractor could sustain a needle stick injury and hence claim against Council. Therefore the contract conditions need to be amended to reflect this additional work and the contractor needs to be given a training session (which is documented and attached to his contract) in the safe handling procedures for work of this nature. For future reference, this work should then be written into the contract specifications for when tenders are called at the time of renewal.

**Manager-Community Services**

Community Services supports the recommendation on the basis that such measures are aimed at reducing what is potentially a substantial community safety risk. Clearly the trial has been successful in :

- reducing the number of syringes found on the floor, foyer and cubicles,
- it has not attracted or encouraged additional drug users to the facility, and
- there would appear to be general community acceptance evidenced by the lack of complaints.

Recommendation (PLA6)

It is recommended that

- 1 Council support the permanent installation of the needle bins within the Clyde Campbell carpark toilet facility and
- 2 Needle bins not be installed within other toilet facilities at this time, and
- 3 Council support the introduction of needle bins at other toilet facilities in the future should the number of unsafely discarded syringes present a risk to the community.

Subject/File No:       BROWNS CREEK DRAIN  
                              (WM/CA: R6017)

Prepared By:           Group Manager - City Works

Reason:                Request by General Manager

Objective:             To determine the future of this drain.

Management Plan Activity:   Emergency Services

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Background:

Following complaints and a letter from the proprietor of Lismore Tourist Caravan Park, Council wrote to Richmond River County Council asking them to clean out Browns Creek drain as the debris and grit had partially blocked the waterway and was causing ponding (copy of map attached).

Recently Richmond River County Council got back to Council and advised that it was becoming increasingly difficult to carry out periodic drain cleaning as trees had been planted and fences constructed that make it difficult to effectively work machines.

There are a number of problems with this drainage system as it currently stands. The drain collects water from:

- Lismore Heights
- High Street in the East
- East Lismore
- Beaumont Drive in the South
- CBD (major portion of the CBD); and
- from approx 600ha.

All the water from this area comes down the drains and passes through pipes under Browns Creek Carpark and into the river. In times of major rain the drain carries large amounts of debris, which consists of three basic groups.

1. ***Floating and semi-buoyant material*** - bottles cans plastic and organic material.
2. ***Suspended material*** - normally small particles eg. clay and soil
3. ***Grit and other material*** - small stones, soil and other foreign material that is being transported down the drain by the velocity of the water.

**Floating and Semi-Buoyant Material**

The close proximity of sporting fields and the CBD provides large amount of bottles, cans and various form of plastic wrapping material that should be screened out and not just dumped into the river.

Because of the amount of water passing through this system any screening process needs to be in the form of a self-cleaning powered screen that continually scrapes the collected litter off the screen into a collection bin. This is a substantial piece of equipment.

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**Suspended Material**

The normally accepted method of removing suspended material is to store the water in a retention basin for sufficient time to allow the suspended material to settle out. While there are a lot of variations on this theme, the major common factor is that retention basins require a substantial area of land dedicated to this purpose.

The current Plan of Management for Lismore Park does not include any form of drainage retention system. We therefore have to assume that in the short term Council does not wish to construct any form of retention basin in Lismore Park.

**Grit and Other Foreign Material**

The drainage system collects a lot of grit, stones and other material off the roads that gets washed into the drain and is carried along because of the high velocity in the drain.

Unfortunately people also drop a lot of rubbish into the drains which can vary from children's toys to supermarket trolleys.

This material piles up at various locations and has to be physically removed periodically as the volumes build up.

In a properly designed system, grit collection devices are installed near the end of the drain where the heavy material can be periodically removed with machines, normally a front end loader.

In our system the grit and other material builds up in the section of unlined drain between the back of Singhs Tyre Service and Uralba Street. Periodically it is necessary to clean out this material to stop the area ponding and appearing to stagnate and generally appear unhealthy.

The whole drainage system consists of pipes and lined open drains that terminate into an unlined drain near Uralba and Dawson Streets before entering the culvert under Browns Creek Carpark and then into the river.

There have long been concerns with the quality of the water being discharged into the river from this system and while there has been a fair amount of discussion as to how we might rectify the problem, nothing has been seriously planned and no funds have been allocated on an ongoing basis to commence rectifying the problem.

At the present time we have no form of treatment on this system.

Thankfully through some past agreement, Richmond River County Council maintains the unlined section of the drain.

**Environmental Factor**

The Department of Land and Water Conservation have already advised that they will require a Review of Environmental Factors prior to work commencing.

The Levee Study has already identified that a number of bat species occupy the existing drain under the Browns Creek Carpark and particular care needs to be taken not to disturb the Bent Wing Bats. This will be most important when we design the Grose pollution trap system as it will be necessary to insure that a major opening remains to allow the bats free access to the pipe.

The drain itself has been heavily disturbed and has been cleaned out using heavy machines on a number of occasions so it is unlikely there will be plant species that need to be protected.

A number of bird species and some fish or tadpoles appear to be present in the creek on some occasions. On other occasions it has been noted that the water quality is very poor and may be very low in oxygen.

### **Current Problem**

After some discussion, it was agreed that leaving the drain to function as it currently does is no longer acceptable and we should look at upgrading the drain with the aim of trying to meet EPA discharge requirements.

Following discussions with Richmond River County Council it appears that Lismore Council will be offered a grant of \$60,000 with Council to find \$30,000 in the current year. This would be sufficient to concrete line the base of the drain between Uralba and Dawson Streets. Work would have to be complete by early in the next financial year.

With luck, a similar grant will be available in the 1999/2000 financial year which would allow the work from Dawson Street to the entrance to the culvert to be completed in 2000.

As part of these works we will construct a grit arrester that can be emptied by a loader as required from time to time.

We still need to overcome the problem of bottles and cans going into the river by constructing a gross pollution trap in the form of a powered screen system.

We do not have any form of funding for the powered screen at this stage.

However I have gained the assistance of the Environmental Health Staff who are currently talking to the EPA and other similar authorities with the aim of chasing down a grant for these works. National Heritage funding appears a real possibility.

### **Expenditure Accountant's Comments**

From a financial perspective, it is definitely to Council's advantage that these types of works be undertaken on the basis of a 2:1 subsidy.

It is proposed that Richmond River County Council provide up to \$60,000 for these works with Council contributing \$30,000. It is understood that the project would be 'staged' over a number of years and be dependent on funding being available.

As the works relate to 'flood mitigation', it is suggested that the funding of \$30,000 for 1998/99 could come from the Flood Mitigation Reserve. In future years, the availability of funds from this reserve will depend on our contribution to the Lismore Levee System.

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### Other Group Comments

#### Environmental Health Unit

There is an increased recognition that stormwater flows running off urban and other developed areas have a significant impact on the health of our rivers and creeks.

In 1998 the NSW Environment Protection Authority (EPA) gave a direction to Council under Section 12 of the Protection of the Environment Administration Act to prepare a Stormwater Management Plan (SMP) for urban areas in the Local Government area.

Council's Environmental Health Officer, Mr Andrew Hannah, is co-ordinating development of the Stormwater Management Plan which the EPA has required to be submitted by April 2000.

A guideline "Managing Urban Stormwater" produced by the EPA to assist councils in developing their SMP's, strongly emphasises that from an environmental management perspective, it is more important to better manage flows from frequent events of relatively small magnitude rather than infrequent events of large magnitudes. In other words, the majority of annual runoff and hence pollutant loads, occur below the 1.01 year ARI event flow and therefore it is more important to improve the quality of those flows in preference to infrequent events of larger magnitude such as 5, 10, 20 and 100 year ARI events.

The vegetation strip in the Browns Creek drain downstream of Uralba Street provides some water quality improvement to wet weather flows (frequent and small magnitude events less than 1 or 2 year ARI). Suspended particles such as silt and small organic particles, nutrients, oils and greases, and other pollutants sometimes present in stormwater such as heavy metals, are trapped by the vegetation strip. In recent times the emphasis has been on the need to retain natural channels in lieu of more conventional lined channels because of this reason.

The Environmental Health Unit recognises that the vegetation strip in the Browns Creek drain consists mainly of weeds and therefore can be an eyesore. Restoration works such as weed control and revegetation with native species will improve the appearance. The development of more conventional lined channels is not in keeping with best management practices for stormwater quality.

It is recommended that should the works proceed, founded on overall public interest, any design and budget considerations incorporate "water quality" improvement principals that will result in improved stormwater quality for frequent events of relatively small magnitude. If such works cannot be funded it would be further recommended that the maintenance programme be deferred for 12 months until Council's Stormwater Management Plan is prepared and options for better management of Browns Creek drain are developed based on a whole of catchment focus.

### Conclusion

The offer from Richmond River County Council and the Department of Land and Water Conservation to assist with funding this project makes it possible. Without their assistance and support Council would be unable to fund the works.

The Dept. of Land and Water Conservation have advised verbally that they support the project which will be subsidised on presentation of:-

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Browns Creek Drain

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1. Satisfactory design plans.
2. Review of environmental factors.

The Richmond River County Council have advised that, as they are responsible for the maintenance of this part of the drain, they will arrange the review of environmental factors at their cost.

Recommendation (WOR08)

- 1 That Council progressively upgrade the Browns Creek drain in stages between Uralba Street and the culvert structure behind Singhs Tyre Service as follows:-  
**Stage 1:** Concrete line the drain between Uralba Street and Dawson Street.  
**Stage 2:** Concrete line the drain between Dawson Street and enclosed drainage system behind Singh's Tyre Service. This will include a grit collection system.  
**Stage 3:** Installation of a Grose pollution system to prevent floating material entering the river system.
- 2 Funding will be provided on a two to one basis with Lismore City Council to fund \$30,000 in the current financial year.
- 3 Design plans and Review of Environmental Factors to be presented to and approved by the Dept. of Land and Water Conservation prior to funding being approved.
- 4 That Council make an application for the installation of a gross pollutant trap in Browns Creek under:-
  - a) Natural Heritage Funding
  - b) Any other form of river/creek improvement funding that may become available.

Subject/File No: REPLACEMENT OF COUNCIL PLANT V172 - GARBAGE COLLECTION TRUCK  
(CS: T99-021)

Prepared By: Workshop & Fleet Manager - Col Starr

Reason: To inform Council of replacement purchase of major plant items

Objective: To seek Council's approval for purchase of one 6x4 truck mounted garbage compactor

Management Plan Activity: 1.12 - Plant Operations

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Background:

Tenders closed on January 27, 1999 for the supply of one (1) new 'Truck Mounted Garbage Compactor' and the sale of:-

- V172, 1994 6x4 International Acco fitted with a Tusk 18m<sup>3</sup> Compactor Body.

Lismore City Council operates three household garbage collection trucks, listed below, with both V171 and V172 operating on single shifts and V191 being the truck which operates on two shifts.

- a) V171 - 1998 Freightliner FL80 with a MacDonald Johnston 22m<sup>3</sup> compactor body.
- b) V172 - 1994 International Acco F2350E with a Tusk **18m<sup>3</sup>** compactor body.
- c) V191 - 1996 Freightliner FL80 with a MacDonald Johnston 22m<sup>3</sup> compactor body.

The truck being replaced has given good service whereas the compactor body, and especially the bin-lifter, has only given fair service with a higher than acceptable level of downtime at the workshop. The existing truck is fitted with an 18m<sup>3</sup> compactor body which was primarily for CBD collection, but with the new 'Organic Waste Collection' to commence in July 1999 and a larger capacity required, is an extra reason for the changeover of this vehicle earlier than anticipated.

**Group Manager - City Works Comments**

Council's ability to operate a state of the art garbage service at a minimum price is heavily dependent on purchasing equipment that is reliable over a long operating life.

Development of better transmissions and higher production bin lifters in recent years has increased productivity and reliability. The Freightliner - MacDonald Johnston combination is clearly state of the art and are proving to be a very reliable piece of equipment.

The logical choice is to purchase another Freightliner - MacDonald Johnston combination thus minimising the need to train operators and maintenance staff.

LISMORE CITY COUNCIL - Meeting held February 23, 1999

Replacement of Garbage Collection Truck

Schedule of the tenders received is listed below.

SUPPLIER	Make, Model & Details of Truck & Compactor body	Cost to Council before Trade-in	Trade-in Offer for V172	Cost using No-Trade-In Offer	Best Change-Over Cost & Delivery
Southside Agencies P/L Lismore NSW	Freightliner FL80 waste Fitted with a "MacDonald Johnston" compactor body	\$227,347.00	\$54,000.00	Not Given	\$173,347.00 using the trade-in offer. May 1999
Volvo Truck & Bus - Brisbane Richlands QLD	Volvo FL6/250 Fitted with a "Superior Pak" compactor body	\$231,000.00	\$40,000	\$231,000.00	\$189,689.00 using the W&P Truck & Machinery offer. 6 to 8 weeks
Gold Coast Truck Centre Nerang QLD	International Acco F2350G Fitted with a "Superior Pak" compactor body	\$234,914.00	Nil Offer	\$234,914.00	\$193,603.00 using the W&P Truck & Machinery offer. 90 Days
Gold Coast Truck Centre Nerang QLD	International Acco F2350G Fitted with a "MacDonald Johnston" compactor body	\$236,504.00	Nil Offer	\$236,504.00	\$195,193.00 using the W&P Truck & Machinery offer. Delivery not stated
<b>**Alternative Tender**</b> MacDonald Johnston Eng. Brisbane QLD	Tender to supply the MacDonald Johnston" compactor body only			\$101,870.00	Not Applicable
<b>***Non-Conforming Tender***</b> Gold Coast Truck Centre Nerang QLD	Hino Ranger 14 Long Auto Fitted with a "Superior Pak" compactor body	\$215,720.00	Nil Offer	\$215,720.00	\$174,409.00 using the W&P Truck & Machinery offer. 60 days
<b>**Non-Conforming Tender**</b> Gold Coast Truck Centre Nerang QLD	Hino Ranger 14 Long Auto Fitted with a "MacDonald Johnston" compactor body	\$217,290.00	Nil Offer	\$217,290.00	\$175,979.00 using the W&P Truck & Machinery offer. 60 days
<b>**Non-Conforming Tender**</b> John Chant Motors Lismore NSW	Isuzu FVX 1400 Manual transmission Fitted with a "Superior Pak" compactor body	Nil Offer	Nil Offer	\$191,900.00	\$150,589.00 using the W&P Truck & Machinery offer. 6 weeks

# LISMORE CITY COUNCIL - Meeting held February 23, 1999

## Replacement of Garbage Collection Truck

SUPPLIER	Make, Model & Details of Truck & Compactor body	Cost to Council before Trade-in	Trade-in Offer for V172	Cost using No-Trade-In Offer	Best Change-Over Cost & Delivery
<i>Private Offer to purchase V172</i>	<i>W&amp;P Truck &amp; Machinery Sales</i>	<i>Campbellfield, Victoria</i>	<i>\$41,311.00</i>		

\*\* Alternative Tender of MacDonald Johnston Engineering, Brisbane, QLD. is for the compactor body only should Council decide to not accept any of the truck tenders/offers made.\*\*

\*\*\* Non-Conforming Tenders:-

- a) Gold Coast Truck Centre, Nerang, QLD. Both of the tendered Hino Ranger 14's transmissions are a lower capacity than specified for use by Lismore City Council waste collection.
- b) John Chant Motors, Lismore, NSW. The tendered Isuzu FVX 1400 is fitted with a MANUAL transmission only and clearly does not meet the minimum specification for this application. \*\*\*

### Tender Analysis

An evaluation panel of Col Starr (Workshop & Fleet Manager), Kieran Wade (Waste Services Manager), Graeme Martin (Waste collection operator) and Chris Allison (Contracts Officer) assessed the tenders as per the criteria set out in the tender documents.

<b>Evaluation Criteria</b>	<b>Price 40%</b>	<b>Capability 30%</b>	<b>Functionality/ Conformity 30%</b>	<b>Evaluation % Total</b>
Southside Agencies P/L Freightliner FL80 Waste with MacDonald Johnston 22m <sup>3</sup> compactor body	40.0%	18.9%	17.0%	75.9%
Volvo Truck & Bus Bris. Volvo FL6/250 with Superior Pak 23m <sup>3</sup> compactor body	39.4%	14.6%	16.0%	69.9%
Gold Coast Truck Centre International Acco 2350G with Superior Pak 23m <sup>3</sup> compactor body	38.67%	13.9%	14.0%	66.6%
Gold Coast Truck Centre International Acco 2350G with MacDonald Johnston 22m <sup>3</sup> compactor body	38.39%	14.1%	15.0%	67.5%

### **Key points to consider:**

- Purchase best possible combination truck & compactor to carry out the job as required.
- Proven back-up support from supplier and manufacturer of both units.
- Operator comfort with 'Ergonomic Design' and operating considerations (OH&S).

Replacement of Garbage Collection Truck

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- Ability to keep truck / compactor working with minimal maintenance and repair time.

**Expenditure Accountant's Comments**

This vehicle is required to implement Council's Organic Waste collection strategy.

The hire rate for the vehicle will be calculated on the basis of full cost recovery. This hire rate component has been factored into the charge for the service.

As mentioned earlier in the report, the three (3) waste collection vehicles work four (4) shifts between them. It is the intention of management to reorganise shifts so that instead of working five shifts i.e. existing shifts plus the organics shift, only four shifts in total will be required. Consequently, the vehicles will be working longer and there will need to be some flexibility should a vehicle break down. This is achieved with a three identical vehicle fleet.

Other Group Comments (Not required)

Recommendation (WOR09)

Council purchase one (1) only Freightliner fitted with the MacDonald Johnston compactor body as tendered by Southside Agencies P/L, Lismore for the cost of \$227,347.00 and accept their trade-in offer of \$54,000.00 for the existing truck/compactor (V172). Changeover cost to Council is \$173,347.00



Subject/File No:           INDIGENOUS MENTOR PROGRAM  
                                  (GW/LM: S136)

Prepared By:               Manager-Administrative Services - Graeme Wilson

Reason:                     Council resolution.

Objective:                 To confirm Council's involvement in the Program.

Management Plan Activity:   Community Services

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Background:

At its meeting of April 22, 1997, Council considered a report entitled "Consultation Report: Review Past and Current Consultation Practices and Research Consultation Processes within Similar Aboriginal Communities". The report was part of the process associated with the **Building Bundjalung Cultural Bridges** Project.

One of the recommendations associated with this report dealt with the issue of Mentoring. Council resolved that it would participate in the Indigenous Mentor Program as being promoted by the Local Government Association. A copy of a circular from the Association on this issue is attached.

Whilst it has taken some time to be brought to fruition due to staff changes and the consultation process with the Indigenous Advisory Committee, the Mentoring Program is now ready to proceed. However having regard to the fact that this is an election year the timing is excellent.

The Indigenous Advisory Committee has selected Fay Smith to undertake this role and she has in turn invited Councillor Roberts to be her mentor. Councillor Roberts has accepted.

The program is less structured than that proposed by the Association and will be shorter in length, given the proximity to the next local government election. As a result the cost to Council will be negligible. For example, Fay will not be paid an allowance, will not claim travelling expenses, will not attend any conferences, nor will she require a facsimile machine. Fay will attend meetings in the company of Councillor Roberts, including Council meetings. Whilst she will sit at the meeting table with Councillor Roberts she will not participate in the meetings unless invited by the meeting. It is anticipated that Fay will have useful insights to the issues under discussion.

Fay will commence the Program immediately and will attend her first Council meeting on March 16, 1999. I would invite you all to make Fay feel welcome.

Manager - Financial Services Comments

Not requested.

Public Consultations

This Program is part of Council's public consultation initiatives.

Other Group Comments

Not requested.

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Recommendation (COR11)

That Council confirm its commitment to the Indigenous Mentor Program and its acceptance of Fay Smith as a participant in this Program.

Subject/File No: INTERACTION BETWEEN COUNCILLORS AND STAFF  
(GW/LM: S18)

Prepared By: Manager-Administrative Services - Graeme Wilson

Reason: Request from ICAC and subsequent formation of a Working Party.

Objective: To rationalise policies, codes and accords relative to relationship between Councillors and staff.

Management Plan Activity: N/A

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Background:

Council at its meeting held on November 4, 1997 resolved that a Working Party comprising three Councillors, together with staff members nominated by the General Manager, be formed to rationalise all policies, codes and accords relative to relationships between Councillors and staff, conflicts of interest, and standards of behaviour for Councillors and staff, and consolidate these into a revised Code of Conduct suitable for presentation to Council.

The Working Party met on December 18, 1997 and after preliminary discussion, resolved to meet again following discussion with Lindsay Taylor. Subsequently the Committee considered a discussion paper on this issue on November 4, 1998.

The discussion paper sought to examine the topics of -

- Councillor access to Council files
- Council Policy - Managing Conflicts of Interest
- Council's Code of Behaviour
- Proposed Policy - Provision of Information to and Interaction Between Councillors and Staff.

In doing so, the aim was to try and link all these documents, establish their relevance and to suggest changes where considered necessary.

The following report consists of changes that the Working Party recommends.

**A) EXISTING COUNCIL POLICIES**

**1 Code of Behaviour (Policy 1.2.13)**

This Code was developed following a Councillor/Senior Staff Workshop at the commencement of the term of this Council.

There is a section within the Code of Conduct, Section 5 which is entitled "Other Responsibilities of Councillors, Members of Staff and Delegates". Certainly it would be relevant for the Code of Behaviour to be mentioned within Section 5 of the Code of Conduct and included as an annexure to the Code.

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## **2 Councillor Access to Council Files (Policy No. 1.2.6)**

This document is as much a procedural document as it is a policy document.

Council's Code of Meeting Practice also provides that Council may resolve that the General Manager produce a document (file) in the event that he declines to do so in the first place.

The policy gives clear direction to staff and thus no changes are proposed. There does not seem to be any benefit in including this within Council's Code of Conduct.

## **3 Managing Conflicts of Interest (Policy 1.2.16)**

The issue of conflict of interest is covered within Council's Code of Conduct (refer Section 4) albeit in a broad manner. Council's policy, which closely follows suggestions made by ICAC gives greater detail on determining what is a conflict of interest and direction to the General Manager and Mayor on how to deal with allegations of conflict of interest by staff and Councillors.

The policy has been in place for 12 months and no problems have been experienced in its operation.

Given that it relates strongly with a section within the Code of Conduct it would seem appropriate that it be included as an annexure to the Code.

## **B PROVISION OF INFORMATION TO AND INTERACTION BETWEEN COUNCILLORS AND STAFF - (Proposed Policy 1.2.17)**

Of all the areas under discussion, this is the one which generated the most discussion amongst Councillors and was the catalyst for this Working Party.

The proposed policy has been reviewed, having regard to the comments of Councillors and following discussion with Lindsay Taylor of Phillips Fox during a visit late last year. Detailed below are the proposed changes. Even with the proposed changes the Policy still closely follows the suggested model as presented by ICAC. The changes proposed are supported by the Working Party.

### **Objective**

*To provide Councillors and staff with guidelines on appropriate interaction/provision of information..*

It is felt that the revised objective is less confrontational than the original.

#### **Item 1(a)**

There was some concern about the need to define "sensitive or controversial issues". To come up with a comprehensive definition is near impossible. I think we can all recognise such an issue when we see it. The Working Party proposed to take a commonsense approach and leave the wording as is.

#### **Item 1(b)**

Again, some concern over definition, this time "political issues", the concern being "that everything could be seen to be political".

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The intent was that staff should not approach/lobby Councillors on issues to be voted on in the Council Chambers, which they have been professionally involved with. This is slightly tricky as staff also have rights as public citizens to approach their elected representatives.

The suggestion is that we change the words “political issues” to “issues before Council”.

**Item 1(c)**

There is an expectation that senior staff, i.e. the General Manager and Group Managers should be available to discuss issues with Councillors outside normal hours - this has been reflected within the clause.

**Item 1(d)**

No change.

**Item 1(e)**

A number of concerns have arisen on this issue. The first is, should the policy be limited to discussing the issue with junior staff “in staff areas of the Council”? Secondly, is it appropriate for junior staff to be dealing with development applications from Councillors, regardless of how minor they are? And finally, how appropriate is it for such applications to be determined under delegated authority? Would it be more transparent for such applications to be presented to Council?

By requiring applications to be dealt with by senior staff and/or determined by Council, we are imposing a higher set of standards on Councillors than the general public, but given the position that Councillors hold this may be appropriate. This would require an amendment to Council Policy No. 5.2.2 “Development Control Unit - Function and Modus Operandi”.

At this stage the only change proposed by the Working Party is for the words “in staff areas of the Council” to be deleted.

**Items 1(f), 1(g) and 1(h)**

No change proposed.

**Item 1(i)**

This item attracted the most interest when it was proposed. There seemed to be a feeling that there was some hidden agenda being exercised to neuter the role of Councillors in representing their constituents and to confine them to irrelevant bystanders in the assessment process. The drafting of this clause was obviously appalling if this was the message conveyed.

What was intended was to assist Councillors in separating the roles of staff/Councillor in the assessment process and the sometimes conflicting role that Councillors have in being advocates for their constituents versus upholding rules and regulations they (the Council) have established as regulators of Council’s planning instruments. That is to avoid placing them in a position where their constituents expect them to ask staff to ‘bend’ rules on their behalf.

As a result of the concern, Clause 1(i) has been amended to read as follows:

*“Councillors involved in staff/developer discussions of development applications, during the assessment process, directing staff on how statutory guidelines should be interpreted.”*

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The key to this clause is “during the assessment process”. This does not prevent the Council amending/deleting/adding conditions at, say, site inspections or Council meetings or asking questions of staff on how they have assessed an application.

**Item 1(j)**

This item has been deleted, but attention is drawn to the comments contained in Item 4 below.

**Item 2**

Remain unchanged.

**Item 3**

This can be deleted as it is covered by Item 1(h).

**Item 4 - Access to Council Offices**

These clauses have been lifted from the model policy. This, like Clause 1(h) drew considerable interest from Councillors, however I note that a number of Councillors apply the principles outlined in sub-clause 4(c) and thus wonder, in reality, how much of a problem it would be. Notwithstanding this, however, minor changes have been made.

**Item 5 - Reporting**

As a preamble to discussion of this issue, the following extract from ICAC’s Model Policy has been provided below.

*(For this policy to be effective and meaningful, appropriate reporting of breaches and appropriate sanctions need to be established and consistently applied. All parties need to have confidence that the policy will be complied with and breaches will be dealt with appropriately. Any cases of clear breaches of the policy that are not dealt with appropriately will erode confidence in the ability of the council to deal with complaints and reduce the efficiency of the council.*

*The policy should be linked with council’s code of conduct and breaches dealt with accordingly.)*

The reporting clauses are designed to treat staff and Councillors equally. The addition of the following sub-clause should clarify this:

*Where the report relates to the conduct of staff, the general manager shall deal with the matter according to the terms of employment of the staff member. Proven breaches should also be dealt with accordingly, that is, by counselling, disciplinary action or dismissal.*

Some concern has been raised over the issue of ‘anonymity’, but the reality is that confidentiality of the identity of persons is a key feature of the Protected Disclosures Act and this clause seeks to reflect this.

**Item 6 - Sanctions**

No changes proposed.

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**C DIRECT ELECTION OF MAYOR**

This is an issue which Council will need to address in the run up to the next election in a number of areas. As you are aware, the Mayor, in terms of the legislation has no more 'power' outside a council meeting than any other councillor. What 'increased authority' they have comes from the councillors who elect them to the position of Mayor.

In 1999 this 'increased authority' will come directly from the people, and thus, say some, will give the Mayor more 'power' (mandate) to act directly/independently of the other elected Councillors.

Whilst acknowledging that the new Council is able to change Council policies, the Working Party considered that guidelines to prospective candidates of how the Mayor should act in the area of staff/Councillor interaction should be laid down.

This takes the form of a statement within the policy stating specifically that the Mayor is required to follow the guidelines as set out for other Councillors.

**D CONCLUSION**

The changes proposed by the Working Party have been incorporated into Council's Code of Conduct and the Policy on Interaction Between Councillors and Staff, amended as indicated above.

Manager - Financial Services Comments

Not required.

Public Consultations

Not required.

Other Group Comments

Has been considered by MGM.

Recommendation (COR61)

- 1 That Council adopt Policy No. 1.2.17, Provision of Information to and Interaction Between Councillors and Staff.
- 2 That Council endorse the inclusion of Policies 1.2.13, 1.2.16 and 1.2.17 within Council's Code of Conduct.
- 3 That the Interaction Between Councillors and Staff Working Party be disbanded.

Subject/File No: COUNCILLOR SUPPORT POLICY  
(GW/LM: S9)

Prepared By: Manager-Administrative Services - Graeme Wilson

Reason: Concern by Councillors and staff.

Objective: Review policy to comply with all legal requirements and set guidelines for use.

Management Plan Activity: Councillors

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Background:

At Council's last ordinary meeting a report on the Expenses and Facilities Policy was presented for consideration. Contained within this report was a section on Secretarial Support. Whilst no direct resolution was forthcoming from Council on this issue, in response to Councillor questions, the General Manager indicated that it would be the subject of a separate report.

The following comments came from the abovementioned previous report:

"The current Expenses and Facilities Policy with respect to 'secretarial support' is succinct and simply states "*Council will provide the Councillors with the following facilities: (d) Secretarial and basic photocopy facilities upon request.*" This is expanded further by Council Policy No 1.2.19, which states in part:

1. *Provide administrative and word-processing services to the Councillors and the Mayor. For example, typing, filing, correspondence, reports, references, etc. including creation of minor documents for signature.*

To meet the administrative/clerical needs of the Mayor and Councillors a Councillor Support Officer has been employed part-time. Amongst her duties are "*Provide administrative and word processing services to the Councillors and the Mayor*".

In preparing the policy and job description staff were conscious of acting within guidelines provided by the Ombudsman, extracts of which are detailed below:

*"Any facilities provided by a council (such as transport, stationery, telephones or secretarial services) for use by councillors and staff in performing their duties or functions should be used strictly for those duties or functions and for no other purpose. Councillors and staff should avoid any action or situation which could create the impression that council property, services or facilities are being improperly used for their own or any other person or body's private benefit or gain."*

A review of work undertaken by the Councillor Support Officer appears to indicate that Council has over time, moved away from its original intention of a tight and strict interpretation of the type of word processing services to be provided, to one which, whilst still within the Ombudsman's guidelines, is definitely broader than intended. This is leading to concern that breaches may inadvertently occur and the very real impact of an increased workload on a part-time position."

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Having regard to the comments of the Ombudsman, it is clear that Council must review the duties provided to Councillors by the Councillor Support Officer and other staff.

A further extract from Council's Code of Conduct emphasises this:

*"A councillor, member of staff or delegate must at all times be scrupulously honest in the use of council resources of all kinds, both physical and human. Use of such resources, whether for official or authorised private purposes, should be in accordance with the council's policy concerning payment of expenses, provision of facilities and any other relevant policy. A councillor, member of staff or delegate should not use his or her position to obtain any benefit which would not otherwise be available."*

Firstly, no staff, with the exception of the Councillor Support Officer, are authorised by Council to provide secretarial support to Councillors. It is thus inappropriate that Councillors directly approach staff to undertake such duties. Requests of this nature should be directed to the General Manager.

The second issue surrounds what secretarial duties should be performed, remembering that the Ombudsman says:

*"Generally speaking councillors and staff should not use public resources for private purposes unless these resources are also available for use by members of the public, and prior permission has been granted. Further, they should strictly comply with any specified directions or conditions which may be placed on the use of these resources. This includes the unauthorised use for private purposes of the services of other councillors and staff or official facilities."*

The philosophy adopted by ICAC and the Ombudsman and supported by the Department of Local Government, has always been one of a narrow interpretation of what constitutes "*performing their duties or functions*".

Having regard to this, Councillors should be acting on behalf of or at the direction of Council to use the secretarial support. An example would be that Council authorises the attendance of a Councillor at a conference - the Support Officer makes all the necessary arrangements.

Clearly such personal matters such as private correspondence, references, etc. are inappropriate. There is also a clear distinction between carrying out Council decisions and acting in a political manner, e.g. letters requesting support for a matter yet to be considered by Council, or contrary to a Council decision.

Councillors should note that the Councillor Support Officer is only employed part-time and is not available Thursdays and Fridays.

#### General Manager's Comments

Over recent months there have been a number of instances where Councillors have requested assistance from staff for the typing and/or transmission of letters and personal media releases which arguably are not within the spirit of current policy.

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These instances all relate to matters associated with the proposed LCC/SCU Joint Venture Aquatic Centre and include personal letters to the Editors of local papers which express opinions contrary to Council decisions determined by resolution, and in some instances, are critical of the Mayor.

Whilst in a pre-election (Council) environment, it is reasonable to expect some degree of spirited public debate of Council issues, but I am concerned to ensure that staff are not either intentionally or inadvertently drawn into such conflict. In my opinion it is unreasonable to expect staff to prepare personal media releases and the like where they do not reflect Council's position on issues or are critical of other Councillors. To date I have allowed staff to service these requests because I did not wish to divert attention from the important public debate or to inflame already frayed relationships.

Now that Council has determined its position on the joint venture issue, it is appropriate to bring these matters to the Council's attention to enable some clear direction to be given to staff.

### Conclusion

Having regard to the above comments, it is proposed to amend the policy by deleting Clause 1 and replacing it with the following:

*“Provide administrative and wordprocessing services to the Councillors and the Mayor in performing their functions under the Local Government Act, e.g. typing of correspondence, reports, filing, etc. in support of Council's adopted position on any matter”*

Guidelines for Councillor requests to utilise these services will also be included in the policy.

### Manager - Financial Services Comments

Not required.

### Public Consultations

Not required.

### Other Group Comments

Not requested.

### Recommendation (COR10)

That Council amend Policy No. 1.2.19 “Support Service and Functions to Mayor and Councillors” by replacing Clause 1 with the following:

*“Provide administrative and wordprocessing services to the Councillors and the Mayor in performing their functions under the Local Government Act, e.g. typing of correspondence, reports, filing, etc. in support of Council's adopted position on any matter.”*

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**Guidelines for Use**

- All requests must be submitted to the General Manager's Office with a written draft of the document to be prepared/transmitted.
- The General Manager reserves the right to reject requests which are outside Council policy, state opinions that are either contrary to or critical of Council decisions, or are critical of other Councillors or staff.
- If the request is submitted on a day when the Councillor Support Officer is not on duty the request will be held over until her return UNLESS the General Manager is satisfied that the matter is urgent.
- Other staff are not to be approached directly to service such requests (including the General Manager's Secretary).
- In the General Manager's absence such requests should be made to the Group Manager-Corporate and Community Services.
- A file copy of all documents prepared will be retained by Council.
- Councillors can expect longer delays for work submitted on Fridays because of staff RDO's.

Subject/File No: COUNCIL MEETING SCHEDULE  
(GW/LM: S43)

Prepared By: Manager-Administrative Services - Graeme Wilson

Reason: Visit to Wudi County

Objective: To reschedule Council meetings.

Management Plan Activity: Councillors

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Background:

As Councillors are aware, a “friendship and trade” visit to Wudi County, China, has been arranged for April 6-19, 1999. At the same time, a Council meeting has been scheduled for April 6, 1999.

Whilst at this stage it is unclear exactly how many Councillors will be travelling to China there is a possibility that there will not be a quorum for this meeting.

To avoid any confusion later in the year it is proposed to bring the meeting scheduled for April 6 forward one week to March 30, 1999. The next meeting would be held on April 27 as currently scheduled. Meetings will then continue on the normal 3 weekly cycle.

Manager - Financial Services Comments

Not required.

Public Consultations

Not required.

Other Group Comments

Not requested.

Recommendation (COR07)

That the Council meeting scheduled for April 6 be brought forward to March 30, 1999.

Subject/File No: AIRPORT ADVISORY COMMITTEE MANAGEMENT PLAN  
(CWK:CD:P9733)

Prepared By: Craig Kelly - Group Manager Business and Enterprise

Reason: To seek adoption by Council

Objective: Implementation of revised Management Plan for the new Committee

Management Plan Activity: Airport

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Background:

At Councils meeting of October 10, 1998 (Resolution No. 405/98), Council adopted a new Airport Advisory Committee (the Committee) which was consistent with the recommendations of Capt Buck Brooksbank, who provided advice regarding the new Airport Terminal.

The revised committee has now met on two occasions and at its last meeting a draft management plan was adopted for the ongoing operation of the Committee.

The draft management plan as adopted by the Committee is included as an attachment to this report.

In accordance with the intent of the plan, it is submitted to Council for review.

Public Consultations

The draft plan was distributed to all members of the Committee. The Committee reviewed and amended the document at its meeting of February 1, 1999.

Other Group Comments

Not required.

Conclusion

The management plan was subject to review and endorsed by the Committee.

Recommendation (ENT03)

That Council endorse the Management Plan of the Airport Advisory Committee.

Subject/File No: WYRALLAH ROAD WASTE FACILITY  
(CWK:CD:P25041)

Prepared By: Craig Kelly - Group Manager Business and Enterprise

Reason: Request by Council

Objective: To obtain further views of Council

Management Plan Activity: Waste Facility

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Background:

At Council's meeting held 21 April 1998, Council resolved:

*"Council consider putting the operation of the tip and weighbridge out to tender in twelve months."* (Resolution 150/98, Point 8).

As this is the period leading up to the budgeting process of Council, it is appropriate to consider whether the Council intends to put the waste facility and weighbridge operations out to tender.

During the past twelve months the Waste Facility has seen a period of substantial change and development. Some of the key initiatives undertaken (though not yet complete) during this period include:

- (i) Implementation of the Landfill Environment Management Plan (LEMP);
- (ii) Undertaking weighbridge and customer traffic control operations with Council staff;
- (iii) Implementation of organic recovery service;
- (iv) Implementation of the buy back centre;
- (v) Assessment of alternatives to extend the life of the existing facility; and
- (vi) Negotiation with the EPA for adoption of the proposed alternatives to extend the life of the existing facility.

The majority of these activities are, as stated, in process.

Councillors would also be aware that, following the question without Notice from Cr Cole at the meeting of Council on February 2, 1999 that the Waste Facility has been closed for a half hour lunch break for staff on weekends. (This change was widely advertised in the *Northern Rivers Echo* and the *Northern Star*.) This was a temporary solution for a health and safety issue, which is to be addressed through the recruitment of multi-skilled staff. The recruitment of staff to the facility is uncertain while the existing stated intention of Council is to consider putting the management of the waste facility and weighbridge out to tender in the near future.

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Manager - Environmental Health Comments

The Wyrallah Road Waste Management Facility is a key focus area of a number of initiatives identified within Council's Waste Minimisation and Management Strategy, as noted within this report.

A number of these initiatives are at a critical stage of implementation and Council control and management of the Waste Facility will provide a necessary degree of flexibility essential for this major reform activity.

It is also considered prudent that prior to tendering a waste facility that the management and operational structure be adequately established. With the implementation of a number of these strategy initiatives at the site and implementation of the Landfill Environment Management Plan, the Waste Facility is an evolving entity with regard to structure and operation. It is therefore supported that it is currently an inappropriate time to call for tenders.

Public Consultations

Not required.

Conclusion

The development of a number of major initiatives of Council are at a particularly critical stage. The Manager of Waste Services is working closely with Environmental Health and Client Services staff to ensure that the proposed deadlines for the introduction of the organic waste collection service are met. Added to this is the intermediate status of other initiatives for the ongoing development of the facility.

As part of the initiative to reduce the cost of operating the facility to a minimum, management has had to make a temporary adjustment to service levels to cater for health and safety requirements. To return to former service levels it will be necessary to recruit staff. Some certainty of the duration of the position will assist in recruitment of the appropriate staff.

It is, accordingly, my view that during the next two years would be an inappropriate time to call for tenders for the management of the Waste Facility and the weighbridge. It is envisaged that during the next two years all of the key initiatives outlined above, will be fully implemented and established. It should be at this time that Council again revisits the option of putting these facilities out to tender.

Recommendation (ENT04)

That Council defer any decision to call for tenders of the operation of the Waste Facility and the Weighbridge until July, 2001.

Subject/File No: QUARTERLY REVIEW - MANAGEMENT PLAN 1998/99  
(S4)

Prepared By: Corporate Development Officer - Paul Parry

Reason: Requirement of Act - December 1998 Quarter

Objective: Information and annotation of Councillors

Management Plan Activity:

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Background:

Clause 407 (1) of the Local Government Act 1993 requires Council to periodically report on the performance set by the Management Plan.

**Due to a technical difficulty this report could not be printed. A copy will be forwarded to Councillors at the earliest opportunity.**



Subject/File No: DECEMBER 1998 QUARTERLY BUDGET REVIEW STATEMENT  
(RS/LM: S699)

Prepared By: Expenditure Accountant - Rino Santin

Reason: Clause 9, Local Government (Financial Management) Regulations 1993

Objective: To gain Council's approval to amend the 1998/99 budget to reflect actual or anticipated results.

Management Plan Activity: N/A

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**Background:**

The Local Government Act 1993 (LGA) requires the annual budget to be reviewed on a quarterly basis and any significant variances to be reported to Council. This report satisfies the LGA's requirements.

The rationale behind this review is to ensure that the 1998/99 Budget reflects anticipated results as the current budget will be compared to the proposed budget during the 1999/2000 Management Plan process.

**General Fund**

The 1998/99 Management Plan provided for a working fund deficit of \$123,000. The September review amended the result to a working fund deficit of \$67,000. This review details a net deficit of \$93,600 which means for 1998/99, operations are budgeted to run at a deficit of \$160,600.

The issue of managing the deficit is now of critical importance. If Council's objective is to reduce the current deficit to any reasonable extent, then the level of revenue funded works must be reduced. From the organisations perspective, if this deficit were to result, our working funds position would decrease from \$787,000 to \$626,000, or by 20% in one financial year, and that is without any significant disaster, such as a flood. Consequently, Council must take the necessary steps to reduce the deficit now as there is still potential for events to occur which will impact adversely on operations.

To effect this requirement, management is currently reviewing all budgets in an effort to reduce expenditure where possible. At the same time, ongoing monitoring of all income streams is to be undertaken so as variations to budget will be identified early and if necessary, steps taken to reduce the impact on the deficit. The results of this review will be reported to Council with the March Budget Review Statement.

The September Review also identified that there were some adjustments to the Budget relating to savings in superannuation and additional workers compensation costs. The bottom line is a net reduction in costs to Council, based on budget expectations, of \$95,100. As these costs are considered 'staff costs' and recovered by an oncost charge to all activities, the benefit associated with this reduction in costs will be received by all activities. Unfortunately, this amount has been further reduced by the impact of:

- a) reimbursement of FID charges on payroll transactions(\$22,200), and
- b) provision of funds for the rehabilitation of employees from Workers Compensation (\$36,500),

As previously reported, the ability of management to manage effectively is severely hampered when a significant planned deficit budget is adopted. In our particular case, there is little latitude to fund potential variances during the course of the year such as legal costs. Council's objective should always be to adopt at least a 'balanced budget' and ideally a 'surplus budget' to allow management flexibility.

For Council's information, listed below are details of activities with significant variances,

#### General Purpose Revenues

There has been additional income of \$30,100 generated by rates as a result of all outstanding supplementary valuation information and other rating adjustments being processed. The net result for this activity is a surplus of \$35,100.

#### Development Assessment

Indications are that income received for development assessment will be \$57,500 less than budget. This means that the original budget will be reduced to \$175,000 from \$232,500 or by 25%. It would appear that the original budget was overstated as by comparison, \$213,200 was collected in 1997/98.

While it is obvious that development has 'slowed', it is understood the number of applications processed has not significantly varied over time.

The net impact of this activity is a deficit of \$56,500.

#### Building & Regulation

As with Development Assessment, income received for Building & Regulation will be \$46,100 less than budget. This means that the original budget will be reduced to \$310,000 from \$356,100 or by 13%. Again, it would appear that the original budget was overstated as by comparison, \$338,000 was collected in 1997/98.

The net impact of this activity is a deficit of \$45,100.

#### Survey, Design and Subdivision Control

Management have adopted the practice of charging the RTA for survey & design works on major projects. While it is accepted that this charge will reduce the amount of monies available for road works, it is reasonably based and provides resources for Council to undertake its objectives.

The net impact of this activity is a surplus of \$37,100

#### Bush Fire Services

The budget adjustments predominately reflect the funding received from the Rural Fire Service.

The major changes relate to the income received for operating expenses (Section B & C). Overall, this adjustment will be \$28,100. The main reason for this reduction is that the subsidy does not cover 'oncosts' whereas our expectations did.

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This reduction coupled with an increase in our contribution to the NSW Fire Brigade of \$9,400 or 9% results in a deficit of \$31,100 for this activity.

#### Rural Roads

All works proposed have been funded. These include:

- a) Richmond Hill Road \$77,800 - FAGS
- b) Rosehill Road \$61,100 - FAGS
- c) Walker Street (Clunes) \$22,500- S94
- d) James Gibson Road \$45,000 - S94

The major item which provides the surplus for this activity is the reallocation of \$339,900 (Special Road Rate Funds) to 'RTA Works'. This is the 50% contribution towards works to be completed on MR142 this year.

#### RTA

These adjustments reflect the most current works program of all RTA works proposed for 1998/99.

As mentioned, the major item which provides the deficit for this activity is the \$339,900 required from 'Rural Roads' as the matching contribution towards works on MR142.

#### Water & Sewerage Funds

A balanced budget position has been achieved in both funds to December 31, 1998.

In the Water Fund, the major changes have been:

- a) The recognition of a \$40,000 subsidy for works to be completed in Nimbin.
- b) The reduction of \$45,000 in S64 funds used.
- c) The net reserve movement is an increase in the Transfer from Reserve by \$2,100.

In the Sewerage Fund, the major changes have been:

- a) A decrease in 'Interest on Investments - Reserves' by \$44,200 which recognises the decrease in funds invested.
- b) The net movement in reserves is to increase the Transfer from Reserve by \$46,100.

#### Other Group Comments

Not required.

#### Conclusion

##### Change in Net Assets

The 1998/99 Management Plan provided for a deficit in the 'Net Change in Assets' of \$1,136,700. A combination of the September & December reviews will increase the deficit to \$2,218,800.

It should be noted that this amount reflects 'the estimated increase in net assets held under the Council's control' for this year. It does not reflect in any way the Council's cash or liquidity position.

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Recommendation (COR09)

- 1 Council adopt the December 1998 Budget Review Statement for General, Water and Sewerage Funds.
- 2 This information be submitted to Council's auditor.

Subject/File No: INVESTMENTS HELD BY COUNCIL AS AT JANUARY 31, 1999  
(GB:SW:S170)

Prepared By: Financial Accountant - Graeme Blanch

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

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

Management Plan Activity: General Purposes Revenues

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Background:

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

Council's total investment for January amounted to \$19,623,857.03 with an average interest return of 5.041%. Average interest rates at the same time last year was 4.78%. Given the current low inflation rate, interest yields are more likely to remain at their current levels.

Manager - Financial Services Comments

Included in the body of the report.

Public Consultations

Not required

Other Group Comments

Not requested

Recommendation (COR09)

Report received and noted

**DOCUMENTS FOR SIGNING AND SEALING**

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

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

**Recommendation:**

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

Two Transfers Releasing Easement and One Request - Council from Kirklands Coaches Pty Ltd

Removal from titles of various easements following demolition of buildings.  
(99-1667: P6301)







Ms Marelle Lee re Report - Cedar Log

(See Minute No. 14/99)

Ms Lee outlined the history of the log and the significance of its present location. She urged its retention in its current site, with embellishment work to improve access to it and information.

(P6816)

Ms A Jones re Report - Disposal of Surplus Council Urban Property

(See Minute No. 15/99)

Ms Jones requested further public consultation prior to any move to reclassify 3 Barr Scott Drive. She cited benefits of retaining this land as open space and problems of access if it was rezoned for housing.

(S367)

CONDOLENCES:

The Late Laurie Chelsworth

Laurie Chelsworth was truly one of nature's gentlemen and also a tireless worker for his community. Speaking personally, and also on behalf of my fellow Councillors and Council staff, I would like to acknowledge the contribution that Laurie has made to our community, and to join with others in celebrating his life.

Laurie was a highly skilled and practical man who was an engineer and for many years he provided advice to the Technical Aids for the Disabled Committee based at the Carroll Centre at St. Vincents Hospital. He would go to the homes of people with disabilities and, using his engineering skills, would assess particular problems and design equipment and aids to assist people in their daily lives. There are many people in this area who have benefitted from such things as childrens' bikes, wheelchairs, trays, tables and other equipment who have reason to remember Laurie with great fondness.

Laurie was a strong campaigner on many fronts. As a committed environmentalist he worked voluntarily with the Big Scrub Environment Centre for many years until his health suffered, and he wrote countless articles for the Big Scrub's newsletter in the Northern Star.

Laurie campaigned strongly for equal access for people with disabilities and the frail aged. Just two examples which can be attributed to his efforts are the much needed lift for the Lismore Library and the handrail at the base of the down escalator at Lismore Central. And of course he was a strong force in the Friends of the Lismore Library for 17 years. When Laurie saw something that needed to be done, he didn't expect someone else to do it but took it on himself.

I, and other Councillors, were privileged to work with Laurie on the Rainforest Botanical Gardens Committee of which he was the driving force. I know that all the committee members were always impressed by his patience, his sense of humour and his tenacity. In the face of almost insurmountable odds he kept working towards his dream - and one day it will be realised.

Laurie leaves behind his wife, Irma, and daughter Nan, son Ken and their families

Goodbye Laurie! Thank you for all you have done for this community. You will be remembered with great affection and you can rest in peace knowing that you made a difference in your life.

The Late Isabel Atcheson

Isabel Atcheson was one of the region's most respected music teachers and choir leaders. She was best known for founding the internationally recognised singing group Isabella a Capella.

The Late Lois Roberts

Lois Roberts, who was well-known in our community, was the twin daughter of the late Pastor Frank Roberts and Mrs Muriel Roberts.

- 10/99 The Mayor moved that Council's expressions of sympathy be conveyed to the families of the Late Laurie Chelsworth, Isabel Atcheson, and Lois Roberts, and the motion was carried with members standing and observing the customary moment's silence.  
(S75)

DISCLOSURE OF INTEREST:

**S459**

Councillor Champion declared an interest in the report "Lismore Leisure & Aquatic Centre Joint Venture Proposal with SCU and SCU Union" (owner of units in Dixon Place).

Councillor Roberts declared an interest in the report "DA97/358 - Amendment under Section 96 of the EPA & Assessment (Amendment) Act 1979 - Reduction in on-site Carparking - Nimbin Multi Purpose Community Centre" (prepared application for NCDA Inc).

STAFF RESIGNATIONS:

- 11/99 RESOLVED that Council note the resignations of Paul Hickey (Manager-Financial Services) and Graeme Newton (Manager-Economic Development) and thank them for their service to the Council and community of Lismore.  
(Councillors Crowther/King) (E/HIC-066,E/NEW-100)

SUSPENSION OF STANDING ORDERS:

A MOTION WAS MOVED that Council suspend standing orders for 15 minutes to allow questions to staff from Councillors.

(Councillors Roberts/King)

AN AMENDMENT WAS MOVED that in addition to the questions from Councillors, members of the public who have already requested an opportunity to address Council be permitted to do so.

(Councillor Swientek)

The amendment LAPSED for want of a seconder.

- 12/99 RESOLVED that Council suspend standing orders for 15 minutes to allow questions to staff from Councillors.  
(Councillors Roberts/King)

- 13/99 RESOLVED that the suspension of standing orders be extended for a further 30 minutes.  
(Councillors Swientek/Larsen)

**Voting Against:** Councillors Roberts, Wilson, Cole and Crowther.

- 14/99 RESUMPTION OF STANDING ORDERS:  
RESOLVED that standing orders be resumed.  
(Councillors Larsen/Wilson)

REPORTS:

Lismore Leisure and Aquatic Centre Joint Venture Proposal with SCU and SCU Union

(Copy attached)

DISCLOSURE OF INTEREST:

**S459**

Councillor Champion declared an interest in this matter and left the Chamber during discussion and voting thereon.

- 15/99 RESOLVED that the report be received and -
- 1 Due to the unavailability of more than one partner to invite to tender through the second stage of the selective tendering process, a satisfactory result will not be obtained by inviting selective tenders and therefore no such invitation will be made.
  - 2 SCU, SCU Union and Council negotiate a contract for the joint venture provision of the Regional Leisure and Aquatic Facility. The final terms of the contract to be recorded as the Heads of Agreement.
  - 3 Council affirm its commitment to the Joint Steering Committee to be chaired by Council. Subsequent to this motion, Council confirm its membership on the Committee.
  - 4 A Heads of Agreement for the project be developed by the Joint Steering Committee and be brought to Council for approval.
  - 5 Concurrent to the development of the Heads of Agreement, the final design of the leisure and aquatic centre be developed to a stage where tenders can be called. The conceptual design of the centre be refined by the Joint Steering Committee and the Project Architect to take account of the key findings of the AC Nielsen Study, issues raised by Councillors at workshops and other public consultations. The final design is to come to Council for approval.
  - 6 Council's capital expenditure on the project is set at the absolute maximum of \$4 million.
  - 7 A development application for the centre be lodged.
  - 8 Tenders for construction of the centre not be called until the Heads of Agreement is executed.
  - 9 Council provide fifty percent of the cost of developing the design of the Centre up to the stage where tenders can be called. This cost to be funded from loan funds raised for the Aquatic Centre development pursuant to the 1998/99 Management Plan and Budget.
  - 10 Council recommends to the joint steering committee that AC Nielsen be engaged to develop a detailed marketing strategy for the Centre to maximise its use by all user groups.
  - 11 Council recommends to the Joint Steering Committee that independent advice be sought to provide a practical management overview of the design.
  - 12 The Memorial Baths continue to operate until the new facility opens to the public. In the meantime, Council prepare a list of future options with rough costings for the Memorial Baths site, to include retaining the Baths either as a pool or as
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reflective water. These options to be the subject of a further report to Council after the design and Heads of Agreement for the joint venture have been finalised.

(Councillors Roberts/Larsen)

**Voting Against:** Councillors King, Swientek and Gates.

At this juncture (9.33pm) Councillor Champion left the meeting.

ADJOURNMENT:

The meeting adjourned at 9.33pm and resumed at 9.52pm.

16/99 FURTHER RESOLVED that Councillors Cole and Irwin be appointed to the Joint Steering Committee with Councillor Crowther as an alternate delegate, able to attend all meetings.

(Councillors Larsen/Crowther) (S719)

Cedar Log

(Copy attached)

17/99 RESOLVED that the report be received and -

- 1 That the Cedar Log remain in its current location.
- 2 That \$1,500.00 be allocated to once again treat the log with timber preservatives and for it to be waterproofed to ensure its preservation for future generations.
- 3 A small cut be taken off the end of the log to enable a detailed study of its age and it be displayed to show its relationship with historical events.
- 4 That funds be included in the 1999/2000 Estimates for improved signage, making the surroundings more attractive and improving the roof alignment if required.
- 5 The Group Manager-City Works investigate the possibility of providing some time limited carparking spaces to improve the tourist access.
- 6 That Council call for and seek community donations of other suitable timber heritage items to develop the theme of the timber history on that site.

(Councillors Crowther/Larsen) (P6816)

Disposal of Surplus Council Urban Property

(Copy attached)

18/99 RESOLVED that the report be received and -

- 1 That Council not proceed with further action leading towards the disposal of Lot 13 DP 252627, No. 52 Mountain View Drive, Goonellabah.
- 2 That Council resolve to add the five trees occurring on Lot 13 DP 252627 as Significant Trees into Schedule 1 of DCP No. 17 "Lismore Tree Preservation Order".
- 3 That in accordance with Chapter 6 (Clause 29) of the Local Government Act 1993 (as amended) and Section 68 of the Environment Planning and Assessment Act, a public hearing be convened in regards to the proposed re-classification of:
  - a) P23555 being 15 Westview Drive, Goonellabah;
  - b) P1020 being 3 Barr Scott Drive, Goonellabah;from **Community land to Operational land.**
- 4 That Walker & Newton be engaged to undertake the project at a sum not exceeding \$440.00.
- 5 That, on receipt of Walker & Newton's report, Council again consider the findings and resolve what classification the subject lands should have.

(Councillors Roberts/Cole) (S367)

DA97/358 - Amendment Under Section 96 of the E.P. & A.(Amendment) Act 1979 - Reduction in on-site Carparking- Nimbin Multi Purpose Community Centre

(Copy attached)

DISCLOSURE OF INTEREST:

**S459**

Councillor Roberts declared an interest in this matter and left the Chamber during discussion and voting thereon.

19/99 RESOLVED that the report be received and that the application under Section 96 of the Environmental Planning and Assessment (Amendment) Act 1979 lodged with Council November 23, 1998, for modification of determination of Development Application No. 97/358 dated March 20, 1998, for the conversion of the former Nimbin Central School Buildings and site into a multi-purpose community centre, including public toilets, at Part Lot 1 DP 930808 (being Lot 11 of a proposed subdivision detailed on Plan No. 97/510 of Messrs Walker and Newton dated 18/11/97) and known as 71 Cullen Street, Nimbin, be amended as follows:

- 1 That Council grant the amendment of Condition No. 4 of Development Application No. 97/358 pertaining to the provision of twenty two (22) carparking spaces, to reduce the number of required spaces to seventeen (17) and to delete the requirements for additional manoeuvring area for specific spaces.
- 2 That the applicant to note that all conditions within notice of determination for Development Application No. 97/358 remain valid.

(Councillors Wilson/Cole) (D97/358)

Local Government Regulatory Reforms Strategy On Site Sewage Management Facilities

(Copy attached)

20/99 RESOLVED that the report be received and -

- 1 Council adopt the recommendations nominated within the Report "Matters for Determination - Preferred On-Site Management and Implementation Strategy" to further facilitate the development of Council's Sewage Management Strategy.
- 2 Council commend Matt Kelly for his efforts in facilitating the Working Party.

(Councillors Gates/Larsen)

**Voting Against:** Councillor Crowther. (S245)

Council Sponsored Child Care Centres - 5 Year Strategic Plan

(Copy attached)

21/99 RESOLVED that the report be received and -

- 1 Council adopt the Five Year Strategic Plan for Council sponsored Child Care Centres.
- 2 Council congratulate staff on preparing this Strategic Plan.

(Councillors Wilson/Cole) (S91)

At this juncture (9.16pm) Councillor Swientek left the meeting.

Purchase of House from Davies - 93 Caniaba Street

(Copy attached)

22/99 RESOLVED that Council defer consideration of this report until Committee-of-the-Whole.

(Councillors Crowther/Larsen) (P1722)

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At this juncture (10.20pm) Councillor Swientek returned to the meeting.

Payment of Expenses and Provision of Facilities Policy

(Copy attached)

23/99

RESOLVED that the report be received and that Council give 28 days notice of its intention to amend the current policy as follows:

- a) Section B(i) Expenses - include travel to South-East Queensland, defined as the area bounded by Coolangatta/Wallangarra/Toowoomba/Noosa Heads.
- b) Section B 3 - no payments will be made to reimburse expenses when the expense has been incurred more than three months before the claim is lodged.
- c) Section C 2(e) be amended by including reference to mobile phone calls.
- d) Section C 2(f) be deleted and be replaced with the following sub-clause:  
Council will reimburse Councillors for reasonable child care costs incurred for attending:

- *Council meetings;*
- *Committee meetings (of which they are a member);*
- *Other meetings/functions attended as Council's appointed delegate;*
- *Authorised inspections as approved by the Council and/or the Mayor.*

*Council will reimburse receipted claims made by Councillors for child care expenses paid to providers, or directly pay the providers, other than the immediate family, spouse or partner including reasonable travel time before and after such meetings (based on advertised commencement time). The payments to be paid by submitting a claim providing details of the date, duration and the rate of payment or authorising direct payments to the provider. Reasonable child minding costs will be judged on the circumstances and cost of services available to the public, identified and assessed by Council's child care services staff.*

- e) Section C 2(h) be amended by including reference to a PC, printer and modem.

- f) A new Section 3 be added as follows:

**Deputy Mayor**

*i) At the discretion of the Mayor, the Deputy Mayor shall be paid an additional fee in recognition of extra duties performed, to be paid from the mayoral allowance.*

*ii) The deputy mayoral fee will be set at a daily amount of \$50 per day or part thereof.*

- g) A new Clause 4 be added as follows:

**Legal Expenses**

*Council will determine the reimbursement of the reasonable legal expenses of:*

*i) A Councillor defending an action arising from the performance, in good faith, of a function under the Local Government Act; or*

*ii) A Councillor defending an action in defamation provided the statements complained of were made in good faith while exercising a function under the Act; or*

*iii) A Councillor for proceedings before the Local Government Pecuniary Interest Tribunal, or an investigation body, provided the subject of the proceedings arises from the performance in good faith of a*

*function under the Act, and the Tribunal or investigation body makes a finding favourable to the Councillor.*

**Note:**

*Legal expenses incurred in relation to proceedings arising out of the performance by a Councillor of his or her function under the Act are distinguished from expenses incurred in relation to proceedings arising merely from something that a Councillor has done during his or her term of office.*

- h) Section C 2(d) be amended by including Council to pay all costs associated with installing the second line.
- i) Section B (i) (1) be amended to provide for Councillors within the urban area of Lismore being able to use Cabcharge for trips to and from home to Council meetings.

(Councillors Roberts/Cole) (S44)

Implementation of Affordable Housing Strategy

(Copy attached)

24/99 RESOLVED that the report be received and that Council -

- 1 Endorse the application for a grant under the Local Government Housing Initiatives Program to be used to implement Recommendation 4 of the Affordable Housing Strategy.
- 2 Note the progress made in implementing the other recommendations of the Affordable Housing Strategy.

(Councillors Gates/Larsen)

**Voting Against:** Councillor Wilson. (S116)

Environmental Weed Species List

(Copy attached)

25/99 RESOLVED that the report be received and -

- 1 That Council give in-principle support for the Environmental Weed Species List to become a guideline for landscaping within the Lismore Local Government Area.
- 2 That Parks & Reserves proceed to place the document on public exhibition for a period of 21 days, and report results back to Council.
- 3 That formal adoption of the guidelines be sought at that time.
- 4 That, pending adoption, Parks & Reserves include these guidelines within the proposed Development Control Plan for Landscaping and Native Vegetation Management.

(Councillors Wilson/Cole) (S331)

Local Centenary of Federation Committee

(Copy attached)

26/99 RESOLVED that the report be received and -

- 1 That Council defer the appointment of a local Centenary of Federation Committee until after September 1999.
- 2 That an amount of \$3,000 be considered for inclusion in the 1999/2000 Budget to assist with the Committee's promotional activities.

(Councillors Roberts/King) (S86)

Member Nominations for Far North Coast Water Management Committee

(Copy attached)

- 27/99 RESOLVED that the report be received and Councillors Crowther, Wilson and the Manager-Environmental Health be nominated for Committee membership and to represent Local Government on the Far North Coast Water Management Committee and these nominations be forwarded to the Local Government and Shires Association of NSW and to the Department of Land and Water Conservation.  
(Councillors Roberts/Wilson) (S301)

Replacement of Council Plant V210 - CAT 966E Quarry Rock Face Loader

(Copy attached)

- 28/99 RESOLVED that the report be received and Council purchase one (1) only Caterpillar 966F - II 4x4 Rubber Tyred Loader as tendered (T99012) by Gough & Gilmour, Grafton for the cost \$310,549 00\* complete with 'Loadrite LR810 Weigh On The Go' scales and printer for an additional \$9,250.00 - less the trade-in offer of \$105,000.00 for V210.  
Change over cost to Council is \$214,799.00\*  
(\*Utilise the 'payment on delivery offer' to further reduce the change-over cost by \$1,000.00)  
(Councillors Cole/Larsen) (T99-012)

Investments Held by Council as at 30/11/98

(Copy attached)

- 29/99 RESOLVED that the report be received and noted.  
(Councillors Larsen/Wilson) (S170)

Investments Held by Council as at 31/12/98

(Copy attached)

- 30/99 RESOLVED that the report be received and noted.  
(Councillors Crowther/Wilson) (S170)

CONTINUATION:

- 31/99 RESOLVED that the time being after 10.30pm the meeting continue to the end of the business paper. (Councillors Roberts/Larsen)

COMMITTEE RECOMMENDATIONS:

Traffic Advisory Committee 16/12/98

(Copy attached)

- 32/99 RESOLVED that the minutes be received and the recommendations contained therein be adopted, excluding Clauses TAC228A/98 AND TAC 230/98.  
(Councillors Larsen/Gates)

▪ TAC228A/98 - NSW Roads & Traffic Authority

- 33/99 RESOLVED that Council include an amount of \$15,000 in next year's budget in order that a Pedestrian Access and Mobility Plan can be developed at the earliest opportunity and Council write to the RTA expressing its displeasure at money being spent on the Plan when Council already has a list of priority works.  
(Councillors Roberts/Wilson)
-



- 34/99      ■ TAC230/98 - Keen Street Pedestrian Facility - Lismore Central  
RESOLVED that a letter be written to Woolworths setting a deadline in which they would need to come back to Council with an acceptable alternative, otherwise Council will proceed with the extension of the centre median and kerb blisters as originally proposed.

(Councillors Roberts/Wilson)

**Voting Against:** Councillor Crowther. (S352)

DOCUMENTS FOR SIGNING AND SEALING:

- 35/99      RESOLVED that the following documents be executed under the Common Seal of Council:-

Subdivision Plan - Lot 71, DP 875676 - Road Widening  
Widening of Snow Street, South Lismore in conjunction with Wyrain Industrial Development.  
(D98/581)

Section 88B Instrument - Lot 1, DP 623974 & Lot 2, DP 817331 - H J Sivewright  
3 metre wide easement for water supply - for works associated with the tea tree farm at the Airport.  
(98-21221: D96/380)

Management Deed - Nimbin Caravan Park - P J & J M Ryan  
Management of Caravan Park for 12 months commencing January 7, 1999.  
(99-177: P15919)

Linen Plan and S88B Instrument - South Lismore Aerodrome  
Easements to NorthPower at the Aerodrome for electricity substation and underground cables.  
(99-1194: P9733)

Lease of Nimbin School of Arts Inc. Toilet Block Facility at Nimbin by Council  
Lease of toilet block for 12 months commencing March 1, 1999.  
(99-1326: P16061)

Linen Plan and S88B Instrument - Caniaba Street/Three Chain Road, South Lismore  
Creation of water supply easement 3m. wide in Lot 1, DP 623974 and Lot 2, DP 817331 - H J Sivewright's property.  
(P14867)

Transfer Granting Easement - Wyrallah Road Public School Extension  
J J Wade to Council - Lot 2, DP 865002  
(99-1407: P7361)

Deed Between Council and Anybell Pty. Ltd. - 27 Glasgow Lane  
Fire Escape Stairs - Parrys Office Network Building - Part of Hensley Carpark.  
(P4042) (Councillors Cole/Wilson)

At this juncture (11.27pm) Councillor Roberts left the meeting.

36/99 CONFIDENTIAL MATTERS - COMMITTEE OF THE WHOLE:  
RESOLVED that Council now exclude the press and public and meet in Committee of the Whole to consider the following matters:-

Item 1 - Purchase of Land from Larkin - 97 Caniaba Street  
(P1723)

Item 2 - Purchase of House from Davies - 93 Caniaba Street  
(P1722)  
(Councillors Larsen/Wilson)

RESUMPTION OF OPEN COUNCIL:

When the Council had resumed its former sitting, the General Manager reported that Council, meeting in Committee of the Whole, had resolved to exclude the press and public during its consideration of the beforementioned matters to preserve the confidentiality of commercial undertakings

AND IT NOW RECOMMENDED

Item 1:

That the General Manager be given delegated authority to negotiate an option to purchase Lot 2 DP 596412, 97 Caniaba Street, from BP & CL Larkin in accordance with the suggested terms and conditions outlined in this report.

Item 2:

- 1 That pre-construction and post-construction inspections be arranged in accordance with normal practice by an independent person who will be responsible for arranging rectification works on the house should a causal link be established between the construction works and any new damage evident from the aforementioned inspections.
- 2 That discussions be held with D & A Davies on a "without prejudice" basis with the intention of seeking an agreement for the Council to ultimately acquire the property at an agreed valuation, subject to:
  - a) the availability of State and/or Federal Government subsidy; and
  - b) current priorities/criteria for the acquisition of floodprone properties under the "Floodprone Property Voluntary Acquisition Program".
- 3 That the General Manager be authorised to negotiate the acquisition of the property 93 Caniaba Street (Lot 1, DP 937587) in accordance with the terms outlined in this report.

37/99 RESOLVED that the General Manager's report of Council meeting in Committee of the Whole be received and adopted.  
(Councillors Cole/Larsen)

This concluded the business and the meeting terminated at 11.45 pm.

**CONFIRMED** this 23RD day of FEBRUARY, 1999 at which meeting the signature herein was subscribed.

**MAYOR**

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