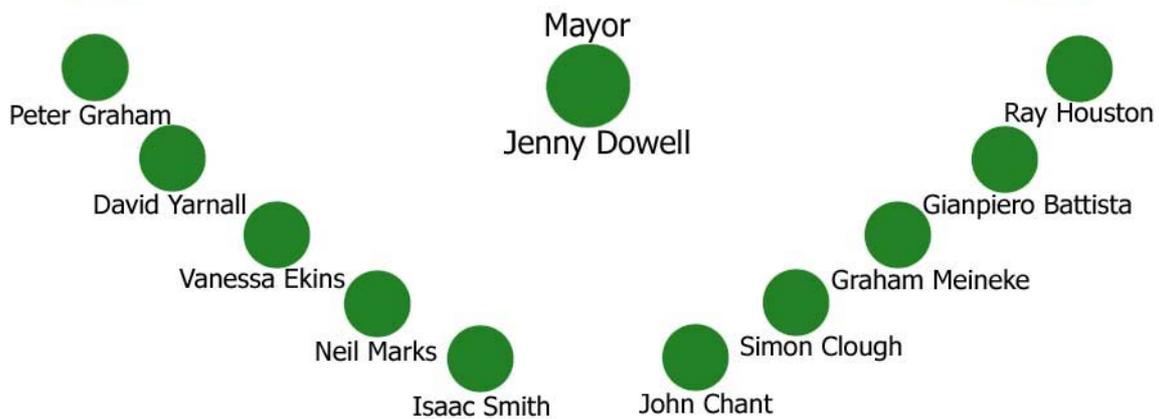


Notice of Council Meeting



Council

An ORDINARY MEETING of LISMORE CITY COUNCIL will be held at the COUNCIL CHAMBERS, 43 Oliver Avenue, Goonellabah on Tuesday, 14 June 2011 at 6.00pm.

Members of Council are requested to attend.

Paul G O'Sullivan
General Manager

7 June 2011



Agenda

1. Opening of Meeting and Prayer (Mayor)
2. Apologies and Leave of Absence
3. Confirmation of Minutes
Lismore City Council held 10 May 2011 94
4. Disclosure of Interest
5. Public Access Session
6. Public Question Time
7. Condolences
8. Mayoral Minutes
9. Notice of Rescission Motions
10. Notice of Motions
 - 10.1 Retrospective Reduction in the Solar Bonus Scheme 1
 - 10.2 Clunes Telecommunicaitons Tower 3
 - 10.3 Road Funding 5
11. Altering Order of Business (Consideration of altering the order of business to debate matters raised during Public Access)
12. Reports
 - 12.1 Section 96 Modification of DA2003.711.1 - Alterations and additions to dwelling at 46 Nielson Street, East Lismore..... 8
 - 12.2 2011-2013 Lismore Business Marketing Plan..... 36
 - 12.3 Draft Arts and Culture Policy..... 42
 - 12.4 Art Gallery café 46
 - 12.5 Annual Remuneration Fees for Mayor and Councillors 50
 - 12.6 Tender T2011-18 - Supply of Two Graders 52
 - 12.7 Tender T2011- 26 - Supply of Pre-stressed Concrete Bridge Girders 57
 - 12.8 Tender T2011-17 - Lease of Nimbin Caravan Park and Operation and Maintenance of Nimbin Public Pool..... 61
 - 12.9 Tender T2011-28 - Cleaning Services 65
 - 12.10 2011 Local Government Association of NSW 68
 - 12.11 Investments - May 2011 70
13. Committee Recommendations
 - 13.1 Traffic Advisory Committee Minutes 81
14. Documents for Signing and Sealing

14.1 Documents for Signing and Sealing.....	90
15. Financial Assistance – Section 356	
15.1 Financial Assistance – Section 356 Report.....	92
16. Questions Without Notice	

Lismore City Council Community Strategic Plan 2008 - 2018



Guiding Principles

Social Inclusion and Participation

Outcomes

That all Lismore residents enjoy equal opportunities within a strong, inclusive community.

Sustainable Economic Growth and Development

That Lismore's economy is vibrant and development is environmentally and socially sustainable.

Protect, Conserve and Enhance the Environment and Biodiversity

That Lismore's natural ecology is protected and maintained in a healthy and robust state for future generations

Best-Practice Corporate Governance

That best-practice management principles pervade our business; that we are innovative, ethical, and our use of resources provides maximum benefits to the community.

Community Strategic Priorities

Enhance Lismore as a Regional Centre

Outcomes

That Lismore retains and builds on its regional service centre role, including the provision of key medical, legal and tertiary education functions

Foster Youth Development

That young people are included in our community and can safely pursue their interests and aspirations.

Support an Ageing Population

That older people have access to appropriate services and facilities to enhance their health and wellbeing.

Provide Sustainable Land-use Planning

That land-use planning is founded on principles of sustainability.

Improve Catchment Management

That catchment management is integrated and holistic, in order to achieve a sustainable and balanced use of natural resources.

Revitalise the CBD

That the CBD becomes a vibrant meeting place and a cultural and entertainment hub for the Northern Rivers region.

Integrated Waste Cycle Management

That Lismore minimises waste to landfill by reducing, reusing and recycling.

Improve Roads, Cycleways and Footpaths

That Lismore has an extensive transport network and is an accessible, safe and efficient city for motorists, cyclists and pedestrians.

Mitigate Climate Change at a Local Level

That Lismore is a leader in reducing carbon emissions and minimising the impacts of climate change.

Develop and Support Art, Cultural, Sporting and Tourism Activities

That our regional art, cultural and sporting facilities remain a major component of Lismore life and an increasingly popular attraction for domestic tourists.

Integrated Water Cycle Management

That Lismore maintains long-term water security for its growing population through the efficient use of this precious resource.

Provide Greater Housing Choices

That Lismore offers a diverse range of housing options to accommodate a variety of households.

Improve Passive and Active Recreational Facilities

That Lismore retains and builds on its regional recreation centre to attract major events and tournaments.

Corporate Foundations

Efficient Use of Council Resources

Outcomes

That we maximise the value of our resources, continually review our operations to ensure best value, eliminate waste and duplication, and gain the full service potential from our assets

Engage With the Community

That the community is informed and consulted about the issues that are relevant to their lives and we are fully accountable to the community for our operations.

Promote a Constructive Corporate Culture

That customers and staff experience a supportive organisation, with a strong sense of integrity, which responds to their needs and provides innovative and creative services.

Whole of Council Corporate Planning

That we have clear goals and act as one in their co-ordinated implementation, in order to maximise the return on resource investment and staff expertise.

Providing Excellent Customer Service

That our primary focus is to understand and respond to the needs of the community we serve.

Notice of Motions



Notice of Motion

Cr Isaac Smith has given notice of intention to move:

That Council write to the state Minister for Energy with copies to the Premier and the local state member expressing Council's grave concern about the proposed retrospective reduction in the Solar Bonus Scheme. The letter should state that Council:

1. Has deep concerns over the plans to introduce retrospective legislation that will reduce the gross feed in tariff for solar energy. Council believes that such legislation will undermine the community's trust in government and create a dangerous precedent.
2. Is concerned for the impact of these proposed changes on the local solar industry considering our postcode area has one of the highest uptakes of photo voltaic systems in the country.
3. Sees these changes as having a very negative impact on the State's greenhouse gas reduction targets.

Councillor Comment

This has been a much publicised issue, so I don't feel the need to restate the case in detail.

It should be noted that three companies in solar industry, in our immediate area, employ approximately 75 staff. The futures of these 75 families, who are growing courtesy of the power of the sun, are being threatened by the retrograde, retrospective moves of the State Government.

The decision to alter the very foundations of the Solar Bonus Scheme will negatively affect thousands of local residents who acted in good faith when purchasing their solar systems. Good faith is very hard for Governments to accumulate, but very easy to lose. This Government needs to recognise that this legislation will deliver a blow to our community that will be measured in family budgets for years to come.

Staff Comment

Manager, Integrated Planning

The intent of this Notice of Motion is supported.

Lismore City Council, through the Environmental Strategies team, has been active in the uptake of the NSW Solar Bonus Scheme and had a number of 10kw solar systems installed at Council buildings around the CBD, including the City Library, CBD Centre, SES Building and Brunswick Street depot. Council has also facilitated the installation of 6 x 10kw (or smaller) units of solar panels in Nimbin as part of the Nimbin Community Solar Farm Project.

Notice of Motion

It is estimated that a 10kw system can create an income of approximately \$8,500 per year (dependent upon sunlight), based on the 60 cent gross feed-in tariff. Depending on the electricity usage of the particular building such a system can partially or fully off-set its electricity costs. It may also create a net credit, whereby Council receives a cheque, instead of a bill, for electricity usage. For example, for the first billing quarter of 2011 (a typically wet summer) the four CBD buildings collectively produced a credit of \$7,475 based on the 60 cent gross feed-in tariff, whilst the electricity usage of the four buildings collectively totalled \$10,278. Based on these figures (which exclude other charges and discounts) it can be seen that a previous expense of \$10,278 has now been reduced to \$2,803, with 75% of the charge off-set by the 60cent feed-in tariff.

The intended retrospective reduction of the feed-in tariff from 60 to 40 cents per kilowatt, using the same scenario, would reduce this credit to \$4,983, thereby increasing the net expense from \$2,803 to \$5,295. Thereby reducing electricity charges by only 50%, instead of 75%.

Based on the clear opportunity to save operating costs, reduce greenhouse gas emissions, set an example to the community and help promote local solar industries Council had a number of other sites being investigated for installation whilst the Solar Bonus Scheme was active.

An unfortunate impact of these proposed changes is its impact on the local solar industry, which is likely to have a boom and bust cycle, based more-so on the rapid, and back-dated, announcement to end the Solar Bonus Scheme on 28 April 2011.

TRIM Record No: BP11/401:EF10/363

Notice of Motion

Cr David Yarnall has given notice of intention to move:

That Council request Optus to consider alternative locations for the proposed telecommunications tower in Clunes to ensure the tower is removed from residences and does not detract from the amenity of the Clunes village.

Councillor Comment

Another communications tower is being proposed for our LGA, this time by Optus in Clunes.

While telecommunication towers are an important link in the modern communications chain and while competition between carriers is essential to maintaining affordable mobile call rates, it is necessary that these towers are located away from residents and should not significantly impact the amenity of the local area.

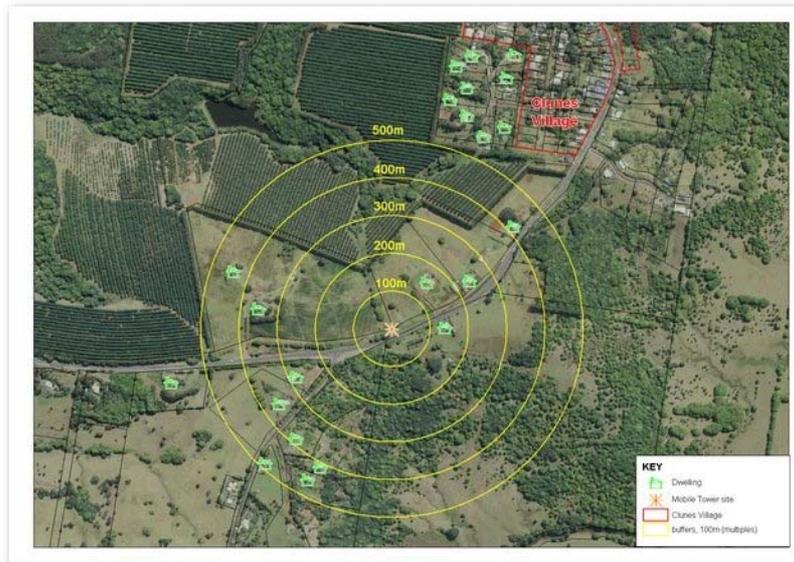
The proposed position of the tower is located on the southern end of Clunes, just south of the speed camera. The proposed tower is 40 m tall and will significantly alter the visual amenity of Clunes. The proposed tower is close to several residents and Electro magnetic radiation emanating from the towers could potentially propose a threat to human health.

Staff Comment

Manager, Development and Compliance

The proposed telecommunications tower is currently the subject of a community consultation period which expires on 20 June 2011. This is required to be undertaken pursuant to the Mobile Phone Networks Code, prior to the determination of any proposal. The proposed tower and associated infrastructure fall within the criteria for complying development under the provisions of the State Environmental Planning Policy (SEPP) (Infrastructure) 2007, and therefore, consent from Lismore City Council is not required for the installation of this facility.

The community consultation process requires that before commencing the work, the Carrier must have regard to any submissions received from the public and Council. Council may therefore resolve to prepare a submission in any terms it so chooses.



Approximate location of proposed telecommunications tower and distances to dwellings

TRIM Record No: BP11/417:EF10/363

Notice of Motion

Cr David Yarnall has given notice of intention to move:

That Council:

1. Includes in the 2011/12 Operational Plan the \$940,000 per annum a shortfall on rural sealed roads as identified in Council's Asset Management Plan.
2. The above amount be an ongoing inclusion in Council's subsequent Operational Plans.

Councillor Comment

In 2010 Council's Asset Management Plan identified a \$940,000 shortfall in our rural sealed roads budget. This extra amount is required in order to maintain our rural sealed roads at the current standard over the next 10 years.

Without this level of funding Council's level of service (standard) on rural sealed roads will deteriorate even further than what is occurring from the current wet weather experienced across the region. To reduce the level of service for rural road users while maintaining levels of service for urban road users is blatant discrimination against rural residents. All road users should expect the same level of service on our roads. To do otherwise is to treat rural road users as second class citizens. I remind Councillors that the 2007 residents survey 'My Say' established that 87% of respondents wanted more money spent on roads and rated roads as the number one priority for Council. Why are we allowing service levels to deteriorate? I can only imagine what state our rural roads will be in 10 years time if we let the current situation continue. What a legacy to leave to the people of Lismore.

Council needs to make some tough financial decisions in order that our core infrastructure service levels are at least maintained. To do otherwise is an abrogation of our responsibilities as Councillors to the rate payers of Lismore.

Staff Comment

Executive Director – Infrastructure Services

The recent wet weather has demonstrated the overall condition of our road network is below a desirable level. This is confirmed by the results of the asset management plan referred to in the Notice of Motion. Council has not arrived at this position over night. The challenges of history, climate, terrain and funding levels have been discussed previously.

A massive injection of funding into roads can only be achieved by a radical reduction in services in other areas of Council. This issue was considered by Council through the full budget review process in 2009. A radical change in Council funding for roads does not appear practical.

However what is possible is a gradual shift in Council funding priorities as opportunities arise and through long term strategic planning. The vehicles to make this change are the the Strategic Plan, Asset Management Plans and Long Term Financial Plan.

Manager, Finance

The draft 2011/12 Operational Plan (including draft 2011/12 Budget) is currently on public display with submissions closing on 17 June 2011. If Council adopted this Notice of Motion, the draft 2011/12 Budget would be a \$940,000 deficit. Such a significant ongoing budget deficit is not sustainable and therefore not supported.

In regards to increased roads funding, Council has at least two resolutions to be addressed. These are:

- Council 10 May 2011, Resolution Number 370/11 **RESOLVED** that:
 1. Council prepare a report on the methods by which council address the funding shortfall of:
 - a) \$940,000pa on rural sealed roads; and
 - b) Approx \$1,000,000pa on unsealed roads.
 2. The report on the above methods be included in the 2011/12 Operational Plan (Budget).
- Council 9 November 2010, Resolution Number 242/10 **RESOLVED** that the objective to finance an extra \$500,000 for roads and \$200,000 for the environment is considered during the review of the Lismore Community Strategic Plan 2008-2018 in 2012.

A report to the 21 June 2011 Extraordinary meeting will be prepared to address Resolution Number 370/11 however, it will repeat options outlined in the report to Council in November 2010 which formed the basis of resolution 242/10. The support of good process is recommended and therefore the option to increase road funding be done in conjunction with the review of the Lismore Community Strategic Plan 2008-2018 in 2012.

TRIM Record No: BP11/420:EF10/363

Reports



Report

Subject	Section 96 Modification of DA2003.711.1 - Alterations and additions to dwelling at 46 Nielson Street, East Lismore
TRIM Record No	BP11/405:DA03/711-03
Prepared by	Manager - Development & Compliance
Reason	Development Application Determination
Community Strategic Plan Link	Provide Sustainable Land-use Planning

Overview of Report

Development Application 2003.711.1 for alterations and additions at 46 Nielson Street, Lismore was approved under delegated authority in 2003. The works have also been the subject of previous modification applications. There is a long history of concerns expressed by the adjoining residents at 48 Nielson Street regarding various issues of notification, processing, consideration, assessment, determination, construction and compliance of applications and works undertaken at 46 Nielson Street. It is not practical or relevant to the assessment of the current application to revisit all of those issues as part of the assessment and determination of the current modification application.

This report therefore focuses solely on the modifications to the existing approvals comprising internal layout changes, changes to windows and the retaining wall/drainage construction along the southern boundary. Given the history of this matter, it was deemed appropriate to engage an independent person to mediate the issues of concern with the current modification application between the applicant and the submitter in accordance with Council policy. This report draws that mediation process to a conclusion and provides a recommendation that reflects the mediation process to date.

The application is reported to Council for determination as it has been called up by two Councillors in accordance with Council policy.

Background

Development Application 2003.711.1 for 46 Nielson Street, East Lismore was first lodged in August 2003 for the purpose of seeking approval for additions to an existing dwelling. These additions included additions to the rear of the upper floor of the existing dwelling, a deck to the rear and a smaller deck to the front of the building. The application was determined by granting consent in September 2003 subject to conditions, which included a requirement for the provision of a privacy screen to the southern side of the rear deck to address potential privacy issues to the rear of 48 Nielson Street.

In March 2004, Council received an application to modify the development consent by changing the location of windows to the master bedroom located on the northern side of dwelling, extend the roofline to cover the proposed rear deck, provide a new workshop area at the lower level behind the garage and extend the living area of the rear living areas by 1320mm and reduce the width of the rear deck by 1320mm. This modification was approved on 5 April 2004, but deleted the proposed new workshop area. No submissions were received in response to the notification of these applications.

In February 2007 a final inspection of the works was undertaken which identified a number of issues requiring rectification.

In June 2007 Council received correspondence from the adjoining owners at 48 Nielson Street who raised concerns in relation to loss of privacy and additional noise as a result of the approved works. There were subsequently numerous items of correspondence and discussions between all parties regarding how these concerns may be addressed, which led to Council forwarding a letter to the applicants in April 2008, seeking:

- installation of blinds/curtains on south facing windows to reduce light impacts;
- addressing stormwater impacts;
- requesting attenuation or relocation of an air conditioning unit; and
- consideration to enclosing the sub floor area of the dwelling, or providing a ceiling under the rear addition, or providing internal floor covering to address the neighbours concerns about noise.

Around the same time concerns were expressed about fill material that had been placed against the dividing fence between 46 and 48 Nielson Street. The applicant advised the owners of 48 Nielson Street in response to those concerns of their intention to remove the fence, erect a 43m retaining wall along the boundary and provide a new boundary fence. Discussions with the applicants about these matters resulted in a further application to modify the development consent being lodged with Council in April 2008. The modification application proposed enclosure of the subfloor area and a 42m long retaining wall 600mm high treated pine retaining wall along the southern boundary.

In response to the notification of that proposed modification, submissions were received which were addressed in a report considered by the then Development Assessment Panel and the modification application was approved on 1 July 2009.

The building works progressed and a final inspection of the premises was undertaken on 22 October 2010 which identified several issues requiring attention, including:

- *a surface drain is to be put in place at the top of the retaining wall to comply with condition no. 30 of the development consent.*

- *provide visual access to the retaining wall located against the southern property boundary and provide a certificate of structural adequacy from a practising structural engineer for the block retaining wall. The certificate shall also provide details on the adequacy of the drainage provisions made in relation to the retaining wall, including the discharge locations for drainage provided to the wall. Council has written to the adjoining owner at 48 Nielson Street to advise of the need for access from their property for this purpose, and Council will advise you by phone by 9 November 2010 if piling removal and property access is objected to.*

The inspection also revealed the following matters required attention:

- *Two (2) windows have been installed in the southern elevation of the garage, and no approval exists in Council's records for these windows to be installed.*
- *Minor changes to the internal layout which depart from the detail provided on the approved plans have occurred, including stairway type and location, paths of travel and doorways, and windows not installed.*
- *Condition 30 requires subsurface and surface water drainage for the retaining wall to be directed to the street drainage system, which does not appear to have been complied with.*

In response to these concerns, the current modification application was lodged with Council on 7 December 2010. Council also received from the applicant on 15 December 2010, an engineering report on the concrete block retaining wall as constructed. This report was prepared by a practising Civil and Structural Engineer, certifying the structural adequacy of the retaining wall constructed.

It should be noted that since June 2007, no less than twenty-nine (29) letters have been received by Council from the owners of 48 Nielson Street (or their solicitor) expressing numerous concerns about the notification, processing, assessment, determination, construction, amenity compliance and dividing fence issues relating to the building works at 46 Nielson Street. It is not practical for this report to cover all of the issues contained in this correspondence and the responses provided by Council staff over the last 4 years. Whilst those matters are obviously of great concern to the owners of 48 Nielson Street, they are largely irrelevant to the assessment and determination of the modification application currently before Council on its own merit, other than to gain an understanding of the circumstances leading to the current modification application.

Given the history associated with this application and the submissions received in response to the notification of the current modification proposal, it was considered appropriate for Council to engage a person to mediate the issues currently under assessment, in accordance with Council's adopted policy 5.2.10 - *Guidelines and Practices for Mediation of DAs*.

Letters were sent to the applicant and submitter on 17 January 2011 offering mediation. In response to that request the applicant advised of their agreement to participate in the mediation and the submitter requested on 31 January 2011 in reply that an independent mediator be appointed by the Australian Mediation Association, requesting Council be a party to the mediation. In response, Council staff advised on 4 February 2011 that any Council sponsored mediation relating to the development assessment would only occur in accordance with Council's policy (that Council would not be party to the mediation), and would focus on the issues of concern as they relate to the application currently being considered by Council. The request for the Australian Mediation Association (AMA) to nominate the mediator was agreed to.

There was subsequently difficulty in arranging a mutually convenient time between the parties for the mediation session to occur, which was subsequently conducted on 23 May 2011. On 30 May 2011 Council received advice from the appointed mediator that a draft agreement had been circulated to the parties for signing. It is important to note that the mediation process concluded at the mediation session on 23 May 2011, and that process needs to be drawn to a conclusion in accordance with Council policy.

The draft mediation agreement had not been signed by either party at the time of finalising this assessment report. The modification application has now been with Council for 6 months, and in the absence of any signed mediation agreement, Council has an obligation to finalise the assessment and determine the application upon the information available, rather than defer that determination indefinitely. There is no obligation upon Council to have signed mediation agreement to facilitate determination of this application, as the mediation process is discretionary, and additional to fulfilling Council's statutory obligations.

Council received an invoice in the amount of \$8,140.00 from the AMA, which exceeds the original estimate of around \$5000 originally quoted for facilitating the mediation process. Council staff have queried the invoice and it is hoped that a revised invoice will be provided following those queries.

It is open to either of the parties to sign the draft mediation agreement at any time or reach an independent agreement that accords with Council's determination of this application. The recommendation of this report is considered to reflect a reasonable response to the outcomes of the mediation process conducted to date.

Description of proposal

The proposal involves modification of DA2003.711.1 in the following manner as sought by the applicant:

1. Minor modifications to internal non-load bearing wall. Walls were added to provide separation between the house and the garage area to act as additional noise reduction.
2. Two additional windows 600mm x 600mm were added at 1500mm high in the southern elevation of the garage. These windows were placed to allow some natural light and ventilation to the garage/storage area.
3. The internal stair type and location was modified from a straight up/down to spiral stairs. This was necessary to accommodate a supporting beam.
4. A window was not constructed in the eastern (rear) elevation of the living area downstairs. The windows were removed as there was sufficient light and ventilation to this downstairs area, and given this area was intended to reduce noise for the neighbouring property, the provision of framed, insulated wall was considered more appropriate.
5. A change in retaining wall materials from timber to concrete stacker blocks. It was considered such a wall would last longer.
6. Request reconsideration of the placement of a swale/dish drain along the top of the retaining wall, to allow for water to be collected by the drainage line that was placed behind the retaining wall and dispersed in the rear yard area.

It should be noted that the above works were completed at the time of lodging the current modification application. It should also be noted that the windows in the garage are not correctly located on the southern elevation plan lodged with the application, and are in fact just less than 800mm(w) x 600mm(d) in dimension and are not obscure glazing as stated on the plans. Given that the windows are in situ, amended plans have not been required to address these discrepancies and instead the plans are notated to reflect the above.



Garage windows in southern elevation in centre of photo



Southern elevation of 46 Nielson Street

Locality map



Statutory controls

Lismore LEP 2000

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

Draft Lismore LEP 2010

Environmental Planning & Assessment Act 1979

Local Development

Policy controls

Lismore DCP

5.2.10 Guidelines and Practices for Mediation of DAs

5.2.16 The erection of structure and filling and excavation near easements, drains, sewer and water mains

7.2.1 Construction of new structures over sewerage mains

9.1.1 Fences and Screen Walls

Notification / Submissions

The application was notified to adjoining and surrounding property owners in accordance with the provisions of Chapter 10 of the Lismore DCP for the Notification and Advertising of Development Applications. As a result of the notification, one (1) submission (within 3 separate emails) from Mr and Mrs Wilson was received which is summarised as follows:

Issues	Comments
No issue with internal wall layout changes or stairs	Noted
The new ground floor area and the proposed deleted windows match in the number of windows shown on plans provided to us, although the position and possibly the size are not a true match.	Noted. The window deleted from the downstairs area is in the eastern (rear) elevation of the building under the deck.
The garage is the main entry point to the flat under the house where 2 young people are living and use it at odd hours during the night and early hours of the morning on a regular basis.	Condition 34 says that "The proposed subfloor area shall not be used for separate occupation and no additional kitchen facilities are to be located in the ground floor area". It is understood that these people are related to the owners of the premises, and internal access via the stairs remains, meaning that this condition is being complied with.
The garage is also used as a workshop and storage area by the owners and is the central hub for many activities.	The use of this area is consistent with the use as a residential garage.
The garage windows are larger at 800x600 and are clear glass, but in different positions to those shown on the plans, not 600x600 and not obscure glass as stated on at least one of the plans.	Noted. Addressed previously in this report.
Additional windows in garage impact on privacy and light spill. Lights in the garage are frequently left on continuously overnight and during the day for extended periods, being for about 2 months on one such occasion. We have never once seen these windows opened in the 6 or 7 years since they were installed. We request that the windows be removed and returned to a blank wall as previously existed. We are continuing to live through a similar ongoing problem relating to the upstairs area with inadequate window coverings, a reluctance to turn off lights and closing blinds after several years of waiting for window coverings in the first place.	This matter is addressed later in this report.

Lismore City Council

Meeting held 14 June 2011 - Section 96 Modification of DA2003.711.1 - Alterations and additions to dwelling at 46 Nielson Street, East Lismore

Issues	Comments
<p>Location of the absorption pit for the disposal of sub-soil water from behind retaining wall. The built retaining wall has no resemblance in any way to the one outlined in the application, nor does it include the remedial drainage features it was to include. A dish drain has the potential to provide some relief from the excess water in this area. The present structure exacerbates the previous problems with considerable stormwater problems at both the front and this section toward the rear of the block and many points in between including the aforementioned area between the houses.</p>	<p>This matter is addressed later in this report.</p>
<p>Instead of a retaining wall with stormwater drainage running to the front of the block it runs toward the rear of the block with the addition of an open dirt pit. The assertion that the stormwater cannot run to the front, whether this is correct or not, is no reason for allowing this substandard structure to remain. An unapproved open dirt pit that was not in the original application has been dug out at the end of the retaining wall and has created new stormwater problems by diverting running water over our block during even moderate rainfall. We are also concerned about the ongoing effects of substantial amounts of stormwater on the footings for our dwelling. The retaining wall should be reconstructed with the boundary of No 46 and built in such a way that it falls to the street and incorporates the previously planned stormwater features, including the crucial connection to the street stormwater as originally planned. It also concerns us that despite the condition that the work be carried out by a licensed plumber the work was done by the owner who is not a licensed plumber.</p>	<p>This matter is addressed later in this report.</p>
<p>We agree with the use of Besser-style blocks for the same reasons expressed by the owners of 46 Nielson St, but to be effective they need to be installed correctly and these have not. Various works carried out by the owners of No 46 also effectively directs water from further up the hill, the road and footpath (see attached pic) and possibly still from their roof as a result of another blind-eye approach to a breach of another matter, all with the effect of directing large amounts of stormwater across our property and further down the hill.</p>	<p>This matter is addressed later in this report.</p>
<p>Poisons used uphill from us are being carried down hill from the adjoining property and possibly beyond and killing our plants. Our desire to adhere to organic gardening methods, particularly for vegetables, has rendered large sections of our backyard unsuitable for growing food plants because we know poisons have washed on to our property and we are unsure to what extent and how harmful they are.</p>	<p>The use of chemicals on the subject property is not relevant to the determination of this application.</p>
<p>Encroachment of the retaining wall onto their property.</p>	<p>The submitters have previously provided Council with a Land Surveyors Report that clearly identifies that the retaining wall is in fact located within the applicant's property.</p>
<p>Requested an Engineers report for retaining wall to ensure it is structurally adequate.</p>	<p>A report from a Practising Structural Engineer was provided in December 2010 that advised the retaining wall did not require any remedial repairs and was in his opinion considered to be structural adequate.</p>
<p>Notification of the DA No 5.2003.711.3 (amended) as sent to us is not an accurate reflection of the actual application letter that was lodged in this matter.</p>	<p>The notification was undertaken in accordance with Council's notification DCP.</p>

Issues	Comments
<p>The new amended DA application presents the likelihood that the work will surreptitiously be approved by simply ignoring the significant breaches to the previous DA that was intended to address significant problems created by work carried out on the site. We have had to suffer the consequences of these previously flawed and inadequate processes where there has not been a willingness to follow due process to address these significant issues for neighbouring properties.</p>	<p>In response to these concerns, it was considered appropriate to engage an independent mediator prior to finalising the assessment of this application.</p>
<p>This is a clear-cut denial of our rights to contact staff in this matter. We now find ourselves in a situation where we have no alternative but to lodge our objection through Councillors, as it is the only door we can find that will allow a legitimate objection through the one crack the administration has not been able to close in our face.</p>	<p>See above. Written submissions were received and acknowledged in accordance with Council procedure.</p>
<p>There is a long history spanning eight years where the LCC's actions can be identified as administrative abuse, especially when it can be seen that each amended development application has resulted in a new layer of disadvantage. Despite the frustrations and the continuing disadvantage I put it to you that we have never been unreasonable in trying to address these issues. Not only are these actions and misleading assertions unacceptable, we also find it totally unacceptable that we have been forced into a situation where we must conduct these issues through a solicitor with its inherent costs and then he in turn also has been subjected to the same communication restrictions. In view of the troubled history of this matter and the continuing reluctance of LCC to exercise its duty of care we request a meeting at this point to allow us to address the serious issues of misinformation and bias so that a fair decision can be made based on truth. Our solicitor should also attend.</p>	<p>In response to these concerns, it was considered appropriate to engage an independent mediator prior to finalising the assessment of this application.</p>

Full copies of the submission as made to Council have been attached to this report.

Consideration

The proposal is required to be assessed having regard to the following matters.

Section 96(2) of the Environmental Planning and Assessment Act 1979 enables a consent authority to modify a development consent upon application being sought by the applicant or any person entitled to act on the consent, provided that the consent authority:

- is satisfied that the development to which the consent as modified relates is substantially the same development;
- has consulted the relevant Minister, public authority or approval body in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent;
- has notified the application in accordance with the regulations and has considered any submissions made concerning the proposed modification; and
- in determining the application for modification, has taken into consideration such matters referred to under Section 79C(1) as are relevant.

Therefore, Council's assessment of the application to modify the subject development consent must consider the following issues:

1. **Is the proposed development as modified substantially the same development approved originally?**

As building works are undertaken, they will often evolve as they go through the detailed design and then the construction process. The proposed modification relates to changes to internal layouts, fenestrations and retaining wall construction, that are already in existence. These modifications have impacts that are required to be assessed, however, they do not radically transform or change the essential character of what was approved originally. The changes are an ancillary part of a residential use of a site for which approval has been granted. The modifications do not change the use of the site. It maintains the area of the site used for active recreation, even though it adds or deletes ancillary elements.

2. **Whether the application required the concurrence of the relevant Minister, public authority or approval body and any comments submitted by these bodies?**

No concurrence is required.

3. **Whether any submissions were made concerning the proposed modification.**

The submission(s) received is summarised and addressed elsewhere within this report.

4. **Any relevant considerations under Section 79C(1) of the Environmental Planning and Assessment Act 1979.**

Internal layout changes

The internal layout changes identified in the application are considered to be minor in nature and will not result in any adverse impacts.

Windows

The mediation conducted for this application was unable to resolve any agreed position in relation to the proposed window modifications.

The deletion of a window serving the downstairs living area from the eastern (rear) elevation is not considered to result in any material or adverse impacts.

The proposed additional windows serving the garage in the southern elevation are considered to be minor works. A submission was received regarding light spill impacts from these additional windows.

The existing light fittings in the garage are fluorescent tubes located centrally in the garage. There is a direct line of sight between these light fittings and the adjoining bedroom window in the northern elevation of 48 Nielson Street. It is considered that the potential for adverse impacts from light spill from lights within the garage are minimal, however in order to minimise the potential for adverse light spill impacts it is recommended that the light fittings be re-located such that there is no direct path for light from these fittings to be directed to windows in adjoining premises. This will ensure a reasonable level of amenity to the adjoining premises at 48 Nielson Street without an unreasonable burden upon the applicant. Refer to proposed condition 35 of the recommendation of this report.

Other options such as the provision of blinds on the windows would create issues if they were left open at certain times and the ongoing enforceability of such an option is likely to be an issue.

The sill heights of the windows in the garage are approximately 1.5m above floor level, thus restricting the ability to view out of the windows and reducing the potential for adverse privacy impacts in accordance with established planning practice. It is considered that the new windows will not result in adverse or material privacy impacts to the adjoining property and requiring their removal and reinstatement of the wall would be unreasonable in relation to the impacts from these windows.

Retaining wall and drainage

The retaining wall (as constructed) was the subject of the mediation process for this application. It is noted that the owners of 46 and 48 Nielson Street have had a ruling from the NSW Land and Property Management Authority regarding the construction of a new dividing fence. No approval from Council is required for this fence, however the successful construction and long term stability of any fence is dependent upon the structural integrity of the retaining wall within 46 Nielson Street.

The mediation process resulted in the mediator providing terms for a draft agreement regarding future actions in relation to the retaining wall.

The provisions of clause 4.9 of Council's Policy 5.2.10 - *Guidelines and Practices for Mediation of DAs* contains confidentiality provisions which preclude this report from providing the terms of that draft agreement. The policy provides that:

Information disclosed in the course of a mediation conference is confidential, and must not be divulged by any of the parties or the mediator. This does not apply to the mediator's final report which is submitted to Council and copies provided to the parties participating in mediation. At commencement of mediation, participating parties are required to sign an agreement to confidentiality.

A mediator must not divulge records, reports or other documents received in the course of mediation, or testify as to the proceedings of the mediation, unless otherwise compelled to do so by law.

Guidelines and Practices for Mediation of Development Applications

The parties must maintain the confidentiality of the mediation. They shall not rely upon, or introduce as evidence, in any arbitration or litigation:

- *Views expressed or suggestions made by another party with respect to a possible settlement of the dispute.*
- *Admissions made by another party in the course of a mediation conference.*
- *Proposals made or views expressed by the mediator.*
- *The fact that another party had or had not indicated a willingness to accept a proposal for settlement made by the mediator.*
- *Statements or notes made by the mediator.*
- *Documents presented at the media conference, unless these documents are otherwise discoverable.*
- *Briefing notes and other documents distributed to the parties immediately prior to a mediation conference.*

No transcript shall be kept of the proceedings of a mediation conference. The mediator is to provide a brief final report of the process and where appropriate the mediated settlement that has been negotiated between parties. The parties shall sign the settlement. Such settlement is concluded "without prejudice".

Confidentiality agreements have been signed by all parties and attendees at the mediation session to reinforce the above provisions.

There are a number of issues that relate to the content of submissions received regarding the retaining wall and its associated drainage. The assessment of an appropriate course of action to address these issues is reflected in proposed condition 29 in the recommendation of this report. The recommendations accord with the provisions of section 1.10 of Chapter 1 – Residential Development of the Lismore DCP and are therefore considered appropriate to address the existing unsatisfactory construction of the retaining wall with concrete block rather than timber to ensure longevity, and address the drainage issues with the wall with clarity, detail and certainty.

Although the proposed retaining wall will be constructed over Council's sewer main which traverses the site, the existing building (as approved) at 46 Nielson Street is located over the sewer main, and it is considered appropriate to vary Council policy 5.2.16 for "*The erection of structures and filling and excavation near easements, drains, sewer and water mains*" and 7.2.1 "*Construction of new structures over sewerage mains*" in this instance to recognise the terms of previous approvals, acknowledge the minor nature of the retaining wall structure in terms of load bearing potential and give effect to the proposed modification and the outcome of the mediation.



Location of sewer main

The proposed modifications are consistent with the zone objectives contained within the Lismore for the 2(a) zone, and the proposed modifications do not result in any further issues in relation to the LEP 2000, or the Lismore DLEP.

The proposed window modifications do not contravene any objectives of *Chapter 1 – Residential Development* of the Lismore DCP, and are therefore considered satisfactory.

The likely impacts of the proposed modifications, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality, have been considered as satisfactory. The site is considered suitable for the final form of the development, and there are no issues arising from the determination of this modification that affect the public interest.

Roads Act Approvals

There are not approvals under the Roads Act applicable to the proposed modification.

Local Government Act Approvals

The discharge of stormwater drainage in relation to the retaining wall will require an approval under s.68 of the Local Government Act 1993 from Council, prior to commencement of that work.

All Likely Impacts of the Development

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

ENVIRONMENTAL APPRAISAL	CONSIDERED
1. Statutory Controls	Yes
2. Policy Controls	Yes
3. Design in relation to existing building and natural environment	Yes
4. Landscaping/Open Space Provision	Yes
5. Traffic generation and Carparking provision	Yes
6. Loading and Servicing facilities	Yes
7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8. Site Management Issues	Yes
9. ESD Principles and Climate Change	Yes
10. All relevant S79C considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

Sustainability Assessment

Sustainable Economic Growth and Development

The proposed modifications will not have any significant impact on economic development or Council infrastructure.

Social Inclusion and Participation

The proposed modifications have very localised implications that will not affect the broader community or availability of services in any sense.

Protect, Conserve and Enhance the Environment and Biodiversity

The proposal will not have any adverse impact on the quality of air, water, biodiversity and waste. The existing retaining wall materials can be recycled to minimise waste and is considered to have a neutral impact on the built environment.

Best-Practice Corporate Governance

The application was notified and submissions received which raised concerns about Council process. In order to avoid criticism of Council, it was decided to appoint an independent person to mediate between the applicant and submitter in accordance with Council policy, which reflects best practice to respond to the circumstances of this matter.

Comments

Finance

Not required.

Public consultation

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

Conclusion

The proposed modifications in relation to the retaining wall and drainage have been the subject of a lengthy negotiation process that has not resulted in any signed agreement arising from a Council sponsored mediation. The reconstruction of the retaining wall to address existing deficiencies is supported to address existing deficiencies in the retaining wall and drainage construction, and appropriate conditions are recommended to ensure the agreement from the mediation are satisfied with regard to relevant legislative provisions.

The proposed windows in the garage are considered acceptable subject to relocation of the light fittings in the garage to avoid direct light from the garage to adjoining windows, with any light from this area being limited to ambient light.

The protracted mediation process and lack of any signed agreement to date arising from that Council sponsored process is unfortunate, but is not mandated for the determination of this application. Either party may sign the draft agreement provided by the independent mediator (or any other agreement) at any time. The absence of a signed mediation agreement is not considered sufficient reason to further delay determination of the current application, and in the absence of a signed mediation agreement being provided within a reasonable timeframe, a report on the mediation process will be provided to Council by the independent mediator, in accordance with Council's policy. (A copy of this report will be made available to Councillors if provided in lieu of signed mediation agreements)

There is a need for certainty at this time, and there are indications that if Council were to await the provision of a further report on the remedial work required to the existing retaining wall structure (which may not be provided as there is no signed mediation agreement), there may be further dispute between the parties about a preferred course of action, which should not be at Council's cost.

In reviewing the recommendation of this report, it is important to understand and acknowledge that all developments have impacts. The issue to be addressed as part of any assessment is whether the impacts arising from the proposal are reasonable, and if they are not, then can they be modified or conditioned to mitigate the impact to something that is reasonable. It is considered that the recommendation of this report reflects this widely accepted approach to development assessment.

Attachment/s

1. Applicant's s.96 modification details
2. Southern elevation plan DA03.711.3
3. Submission Documents
4. Floor Plan - *This matter is considered to be confidential under Section 10A(2) (a) of the Local Government Act, as it deals with personnel matters concerning particular individuals (other than councillors).* (Over 7 pages)

Recommendation

That:

1. Council, as the consent authority, approve application 2003.711.3 seeking modification of development consent for alterations and additions at 46 Nielson Street, Lismore to allow for 2 x (800mm x 600mm) windows in the southern elevation of the garage, deletion of a window serving the downstairs living area from the eastern elevation, internal layout changes, and retaining wall construction and drainage along the southern boundary, pursuant to the provisions of section 96 of the Environmental Planning & Assessment Act 1979, in the following manner:

Delete condition 29 and insert the following replacement condition:

29. The applicant shall engage a practicing civil/structural engineer (agreed to by the owners of 48 Nielson Street) to inspect (and conduct associated soil testing of) the existing retaining wall on the boundary of 46 and 48 Nielson Street, Lismore, and provide to owners of 46 and 48 Nielson Street a report (within 30 days of the date of receiving written notification of the determination of s.96 modification application 2003.711.3) regarding the structural integrity and appropriate drainage for the retaining wall between respective properties and recommend a basic plan regarding any structural and drainage adjustments required to the retaining wall. The fee for such report and cost of carrying out any recommendations made in such report shall be met the applicant.

The report shall include or address (but not necessarily be limited to) details of the following:

- (a) The extent of demolition/reconstruction of the retaining wall.
- (b) The proposed method(s) of providing subsurface drainage behind the wall.
- (c) The direction of subsurface and surface water flow from above and behind the retaining wall by pipe or channel to the street alignment unless this is not possible to be achieved by gravity.
- (d) The location and level of discharge points for drainage.
- (e) Calculations and design details for an appropriately located and sized storm water absorption/dispersal pit (taking into account (c) above) in accordance with accepted engineering practice to avoid potential for adverse drainage impacts to adjoining premises.
- (f) Pegging the boundaries between the properties so that the retaining wall is properly positioned entirely within the property of 46 Nielson Street.
- (g) During the progress of recommended works to the retaining wall in accordance with the report, provisions and timing for the inspection of any works carried out in accordance with the report recommendations at two points during the works. The first inspection should be at the foundation stage of the retaining wall and the second inspection should be at the drainage stage.
- (h) A proposed schedule for completion of the works.

Upon completion of the report, the engineer shall allow each owner a period of fourteen (14) days for comment in reply to the report, and include details of any response received from the respective owners with a response/amendments to any comments received. The report shall then be submitted to Council with a Construction Certificate application for written approval prior to the works proceeding.

The content of the report shall be complied with, and if there is any dispute regarding the adequacy, terms or compliance of, or with, the final engineering report, the Manager – Development & Compliance of Lismore City Council will determine an appropriate course of action to resolve the matter in dispute.

Reason: *To ensure the retaining wall and associated drainage is constructed to appropriate standards and is fit for its intended purpose.*

Modification of condition 30 to read as follows:

30. The retaining wall shall be provided with subsurface and surface (dish drain) drainage connected directly to the street drainage system (or otherwise in accordance with the requirements of the engineering report required by condition 29 of this consent), and located entirely within the boundaries of the allotment.

Reason: *To ensure surface water is not adversely impacting on adjoining properties.*

Insert the following new condition 30a:

30a. Within twenty one (21) days of the completion of the works identified in the approved engineering report referred to in conditions 29 and 30, certification from a practising civil/structural engineer shall be provided to Council that the completed retaining wall works are structurally adequate and drainage has been provided in accordance with relevant construction and drainage standards, which must be specified in the certificate.

Note: *The provision of this certificate will satisfy compliance with the terms of condition 3 of DA2003.711.*

Reason: *To ensure the retaining wall and associated drainage is constructed to appropriate standards and is fit for its intended purpose.*

The addition of a new condition 35:

35. The lighting provided within the garage shall be located in a position that ensures there is no direct line of sight between any light fitting in the garage and the windows of the adjoining premises at 48 Nielson Street, to the satisfaction of Council's Development Assessment Officer (Building). Any changes to light fittings to comply with this requirement must be undertaken within 28 days of a written direction for compliance being received from Lismore City Council.

Reason: *To ensure that light emanating from the garage area is ambient light, and preserves a reasonable level of amenity to the adjoining premises at 48 Nielson Street.*

Development consent modification application Lot 145 DP 37888

46 Nielson St East Lismore 2480



Dear Sir,

Re modifications to DA number 5.2003.711.2

We request that Council approve some minor modifications to the above Development application.

These modifications are as follows;

1. Minor modifications to internal non load bearing walls . Walls were added to provide separation between the house and the garage area and act as additional noise reduction between our building and neighbouring property.

2-Two additional windows 600X600 were added at 1500 high in the garage. These small windows were placed to allow some natural light and ventilation to our garage/storage area without interfering with our neighbours privacy. This area is a garage/storage area which is mostly used during the day. We are prepared to curtain these if required.

3- Stair type was modified from straight up/down type to spiral stairs. This was necessary to accommodate a supporting beam obstructing the path of the previously considered straight up/down type of configuration.

4- Windows were removed from the living area downstairs. We removed the windows as we felt we had sufficient light and ventilation in this area. Further, considering that the whole purpose of allowing us to build was to reduce noise for the neighbouring property we believed that more of the framed insulated wall in this living area would assist in noise reduction.

5-Finally we would request that council reconsider a placement of a (swale /dish drain) along the retaining wall. Our path is 1.3m wide and it is shaded by the eaves which mean that no grass can grow in this area which leaves it muddy in heavy rain fall. Instead we would request that council allow for the water to be collected by the drainage line that was placed behind the retaining wall and dispersed further down the block. If we assume that rain has an even chance of falling from all directions that means that on average only 25% of rain would be from the south. Considering that a lot of this rain fall would be collected by our larger roof area the remaining water that falls on the surface should not be a significant problem. Should an issue arise in the future we will be more than happy to address it in any way Council sees fit.

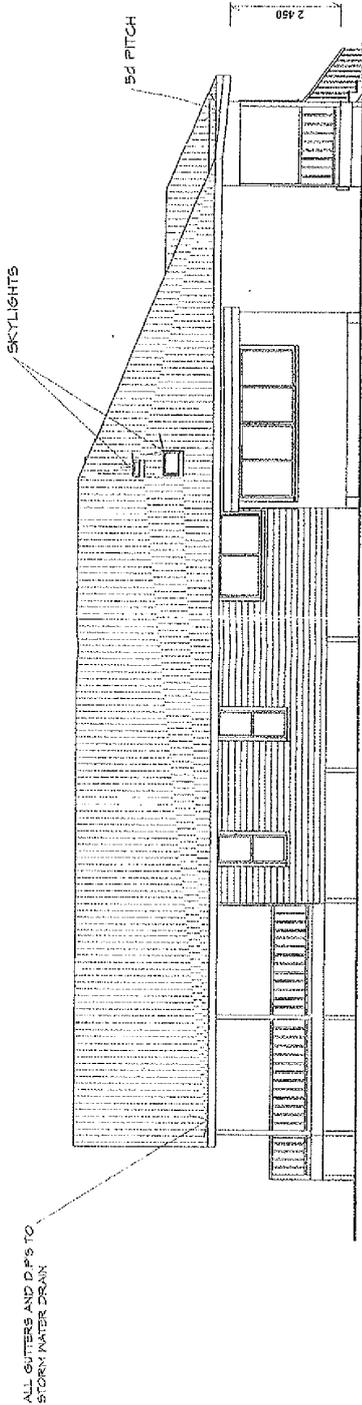
6-retaining wall materials were modified from timber to stacker blocks wall, although much more expensive we believe it will last a lot longer into the future without issues of rot, decay etc...

Please consider the requests herein and advise outcome in due course. Please contact Kobi on 66213101 if you have any queries or require any further information.

Yours sincerely

Karen and Kobi Hazan

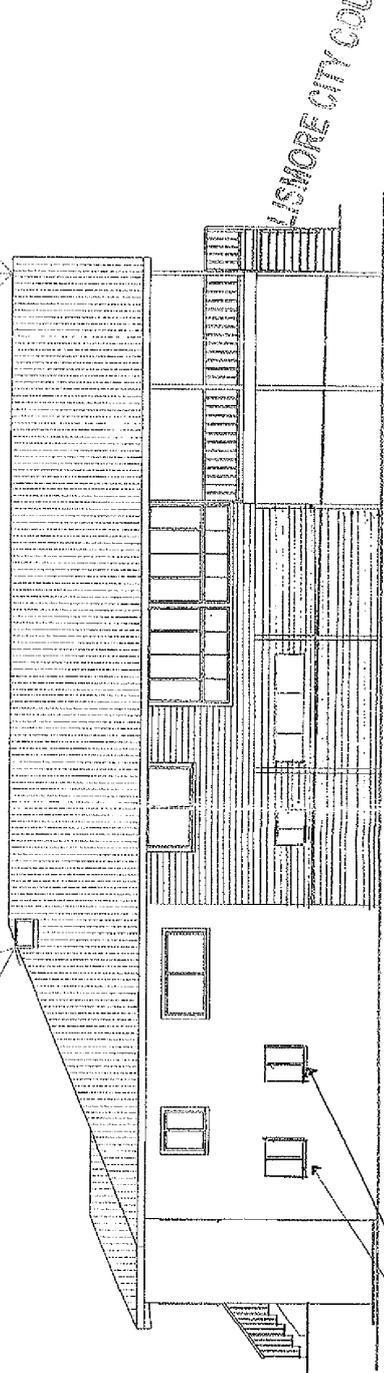
SCANNED
7 DEC 2010



NORTH ELEVATION

COLORBOND ROOF SHEETING

SKYLIGHT



SOUTH ELEVATION

4.5m Stacker blocks retaining wall

2 Approximate windows (Approx. Location)
600 x 600 in GARAGE

REVISED FEB. 2004

SHEET 5 OF 6

FEB. 2004
SCALE 1:100

PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING RESIDENCE
AT LOT 145 NELSON ST. LISMORE FOR MR. K. AND MRS. K. HAZAN

SUMNERLAND BUILDING DESIGN
1300 136214

ACCREDITED BUILDING DESIGNER No. 636

LISMORE CITY COUNCIL

48 Nielson St,
East Lismore,
NSW 2480.
Ph: 6621 7569

Mr Peter Jeuken,
Manager – Development and Compliance,
LCC Council,
PO Box 23A,
Lismore,
NSW 2480.

Re D.A. No 5.2003.711.3 (amended)
Y & K Hazan, 46 Nielson St, East Lismore.

Dear Mr Jeuken,

I have enclosed a response to the full DA in relation to this matter. I felt it was necessary to do so as I am concerned to find that the notification of the DA No 5.2003.711.3 (amended) as sent to us is not an accurate reflection of the actual application letter that was lodged in this matter. The notification also totally ignores the fact that the whole structure of the retaining wall as built is not compliant with the original application, approval and conditions (although known to the council officer handling this matter). The structure as built includes significantly different aspects that create new and worse problems than those it was supposed to alleviate. I believe the Council has a responsibility to address these issues.

The worrying concern with this blind-eye approach to the serious anomalies is that this seems to support a flawed amended DA, which frankly, I consider to be dishonest. The new amended DA application presents the likelihood that the dodgy work will surreptitiously be approved by simply ignoring the significant breaches to the previous DA that was intended to address significant problems created by work carried out on the site. The one reference to the change of retaining wall materials in the LCC notification we received ignores the major changes that resulted in the non-compliant structure. This strangely corrupted process would then seem to deny us the right to address the very serious problems inherent in the altered structure that bears no resemblance to the retaining wall as described in the original application.

We also note that the actual application lodged with LCC sought to do away with the missing dish drain that was a condition of the original application but this is not mentioned in the notification to us. Does this significant condition also quietly slip into oblivion in this amended development application? Again, by not mentioning the never-before-mentioned pit about 2/3rds of the way towards the rear of the block that creates new flooding over our residential property, the adopted methodology seems to create a way to a back-door "legal" status in its relationship with a seemingly minor change to materials for the construction of the wall. Again, I see this as a deceptive way of "legalising" something that should not exist and once again it denies us our rights for the due consideration of serious anomalies and the disadvantage it creates for us. This is not the first time that serious breaches have been overcome by simply understating (overshadowing only being over the roof) or not acknowledging their existence (major privacy issues and light spill problems resulting from 2 large floor to ceiling windows etc). We have had to suffer the consequences of these previously flawed and inadequate processes where there has not been a willingness to follow due process to address these significant issues for neighbouring properties.

Outwardly, it would seem that community members can address such occurrences by lodging an objection, but this is not the case if you are Robert or Janine Wilson or one of our family members. We are banned from speaking to anyone about these issues. We are not allowed to speak to the officer in charge of this project, nor Peter Jeuken, Brent McAlister, GM Paul O'Sullivan, a basic bottom-of-the-pile community liaison officer or any other junior staff member. We have been told on more than one occasion when we have tried to speak to "anyone" about recent changes that no one is allowed to speak to us or anyone else from our address and no one is allowed to discuss 46 Nielson St with anyone.

Against this background of the LCC refusing to take phone calls from us on this matter and telling us to write a letter after having already told us that all letters are "filed and ignored" amounts to bullying taunts. This is a clear-cut denial of our rights in this matter. We now find ourselves in a situation where we have no alternative but to lodge our objection through councillors, as it is the only door we can find that will allow a legitimate objection through the one crack the administration has not been able to close in our face.

It is very disturbing that it can be deduced that this abuse of administrative authority was deliberate when the paper trail in LCC's own files shows that LCC officers had identified our vulnerable position by describing us as pensioners compared with the description of the applicants as "reasonably successful".

There is a long history spanning eight years where the LCC's actions can be identified as administrative abuse, especially when it can be seen that each amended development application has resulted in a new layer of disadvantage. I believe anyone examining this issue without the unjust and biased attitude that has dogged this matter would clearly see the discrimination with all the hallmarks of oppression. We cannot understand this unreasonable position, especially when we have done everything we could to be reasonable and follow the due processes. Phone records show our attempted contacts have been reasonable and indeed frequently with months between each attempts, yet there is no point when we can get past the person who answers the phone and blocks any contact with us on these matters.

I put it to you that the LCC does not have the authority to continually deny us our right to speak on these matters and that it has a responsibility to address breaches of applications in an open and transparent way that recognises the rights of neighbours to adjacent developments. It is appalling that past crucial objections were not even noted.

We put it to you that the LCC's acceptance of breaches, no matter how obvious the breach or disadvantage it causes us, is absolutely inexcusable.

Surely it is understood that we are not seeking a privilege or special benefit of any kind but our basic right under the NSW EP&A Act 1979 79 (C) for consideration of our amenity on a neighbouring property and our rights under the Anti-Discrimination Act for a right to fair treatment. The oppressive actions of a denial of access to anyone within Council administration to address our concerns cannot be justified by any stretch of the imagination. Again, we say to you that it is an appalling suggestion that we can "write a letter" when we have been told on several occasions that any letters that we write will be "filed and ignored". Again, I say this amounts to taunts delivered by an administrative bully. To this day the Council administration ignores us and our legal representative.

It should be noted that the one correspondence our solicitor has received in more recent times, was from Simon Adcock in response to the unjust embargo. The letter is a nonsense that does not reflect the facts.

"All communication must now be in writing and addressed to the General Manager. With the exception of new or significant information presented by either yourself or your representative, Council will read and file future written correspondence but will not respond on matters regarding Development Application number 5.2003.711.1 or the approval process of Section 96 Application 5.2003.711.2. We will of course continue to respond on concerns raised about the progress of either development not being in accordance with approved plans."

Despite Mr Adcock's assurances that concerns raised about the progress of work relating to past applications "not being in accordance with approved plans", this is not the case. We have not been able to draw attention to the problems with the garage windows for example, either as a matter "not being in accordance with approved plans" or as a current issue where there it is an ongoing assault to our amenity. There has been no attention to this matter until now, 7 years after they were installed, when they have appeared as a new modification in an apparent effort to "legalise" them retrospectively. These relatively small windows have become a huge problem with bare windows lit by 4 fluorescent tubes opposite our bedroom, naturally adding to the sleep disturbance from this property, but the LCC doesn't want to know and we are facing the likelihood of another retrospective approval for inappropriate work

that breaches former consents and conditions. It is blatantly obvious that the LCC did not and still does not address the issues of developments "not being in accordance with the plans" as Mr Adcock attests. It should also be noted here that most of the windows, at least on the southern side facing us, don't appear to match in size those drawn on the plans.

It should be remembered that it was Mr Adcock himself who repeatedly told us that all letters would be "filed and ignored" and still all our attempts to address even the most recent matters, despite this assurance, are headed off at the pass.

Despite the frustrations and the continuing disadvantage I put it to you that we have never been unreasonable in trying to address these issues. We have attempted at all times to follow the processes, we have not been abusive, upset on one occasion yes, but not abusive. On the other hand the LCC has abused its authority and on occasion has even been verbally abusive to us. The fact that this abuse can continue to such a highest levels in the LCC administration is beyond belief.

Not only are these actions and misleading assertions unacceptable, we also find it totally unacceptable that we have been forced into a situation where we must conduct these issues through a solicitor with it's inherent costs and then he in turn also has been subjected to the same "file and ignore" rule.

We also understand that the GM gave an assurance to our solicitor that the embargo would be lifted but in reality the ban remains active with all its stonewall features.

This continuing abuse of power resulting in the ongoing erosion of our amenity and the nightly sleep disturbance resulting from previously mishandled development applications is having a devastating effect on our lives. It should be noted that anyone who sleeps in this home since this inappropriate development complains about increasing fatigue as a result of the nightly sleep disturbance from the inappropriate 2-storey hall-like structure.

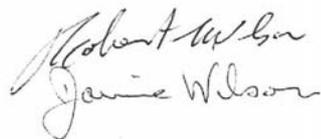
In view of the troubled history of this matter and the continuing reluctance of LCC to exercise its duty of care we request a meeting at this point to allow us to address the serious issues of misinformation and bias so that a fair decision can be made based on truth. Our solicitor should also attend. There is no excuse for a blind-eye approach to non-compliance and denying us a voice where the rules on these issues say we have that right to voice our objections. We should have the opportunity to address the misinformation and abuse of process surrounding this issue. It cannot be acceptable that such obvious breaches are condoned in such an underhanded way. I put it to you that to continue to overlook these serious breaches again at this point would amount to a serious perversion of the Council's legal obligations in this matter.

I believe any failure to address these issues at this point would raise new legal issues as well as moral questions about the LCC's discriminatory and oppressive actions. We do not believe the process of ignoring us and denying us ours rights as described in law has any defence and we urge you to extend to us the duty of care the Council is obliged to apply and rise above the oppressive processes that deny us a reasonable amenity and peace in our own home.

We have also attached our comments and objections to the matters in the DA letter from the applicant rather than the questionable notification we received.

It should also be remembered that this retaining wall encroaches on our property where in should be wholly contained within the owners' property. I will forward the report as soon as I can contact the surveyor, otherwise I can forward his email that informs us there is an encroachment if the surveyor continues to be unavailable at this time.

Yours sincerely,



ROBERT & JANINE WILSON.

Sandra Walker
18 Kookaburra Terrace
GOONELLABAH 2480

Lismore City Council
43 Oliver Avenue
GOONELLABAH NSW 2480

Dear Sir/Madam

Re: 46 Nielson Street, East Lismore

I am writing in regards to the above house that recently had renovations/extensions completed in 2005 and to confirm Mrs Janine Wilson's concerns.

While I was the owner of the residence at 50 Nielson Street, Lismore, I made numerous phone calls to the council, to Mr Harry Wilson, in relation to how their extensions had affected the way the water now was being directed down the hill. It was now coming through under my house and under the shed out the back of my house and pushing the dirt away from around the stumps.

They put a dirt speed hump at the top of my property to redirect the water and put a bitumen speed hump on the front of their drive way to redirect the water. The real problem was that they were *allowed* to put a drive way in that sloped down at one corner and redirect the water away down the hill in the direction of my house. The other problem is that they don't have enough down pipes to take the water away and the gutters overflow.

The house is also an echo chamber. My house was located 2 houses from theirs and you could hear everything they said when we were in the room out the back and even inside the house. When we were in the room out the back it sounded like they were having a party, the amount of noise that echoed down the hill, but it was just general conversations.

Because of the renovations that they completed this played a major part in why we decided to sell and move. Everytime it rained we had a garage full of mud and the noise we didn't need considering we have young children and my husband is a baker and worked nights and needed his sleep during the day.

Yours faithfully



Sandra Walker (formally Haling)

RESPONSE TO D.A. No 5.2003.711.3 (amended)

1: Minor modifications to internal non load bearing walls etc.

(We have no knowledge of this matter and it does not affect us.)

2: 2 additional windows 600x600 were added at 1500 high in the garage. These small windows were placed to allow natural light and ventilation to our garage/storage area without interfering with our neighbours privacy. This area is a garage/storage area which is mostly used during the day.

Firstly, the windows are larger at **800x600** and are **clear glass**, but in different positions to those shown on the plans, not 600x600 and not obscure glass as stated on at least one of the plans.

To suggest that the garage is mostly used during the day is incorrect.

1: **The garage is the main entry point to the flat under the house** where 2 young people are living and use it at odd hours during the night and early hours of the morning on a regular basis. It should be noted here that in the Determination of the Development Application relating to the new work underneath the house Clause 34 says that "The proposed subfloor area shall not be used for separate occupation and no additional kitchen facilities are to be located in the ground floor area". A couple has been living in this area for several weeks now.

2: The garage is also used as a workshop and storage area by the owners and is the **central hub for many activities**.

3: **Four fluorescent tubes** directly behind these relatively small windows emit bright light that has proven impossible to block out from within our bedroom.

4: **These lights are frequently left on continuously overnight and during the day** for extended periods, being for about 2 months on one such occasion.

5: Contrary to the owners' claims that these windows were installed for ventilation purposes, to this date we **have never once seen these windows opened** in the 6 or 7 years since they were installed.

6: Our neighbours have a long history of **not honouring agreements** so we cannot have any faith in a commitment by these neighbours to (1) install curtains, (2) with light-blocking qualities and (3) a willingness to use them. Such agreements relating to upstairs windows led to a less than satisfactory solution on all 3 points and we are still subjected to light spill problems from those areas together with ongoing nightly noise nuisance.

7: In our view, these windows are unnecessary and add to the significant loss of our amenity including privacy issues opposite our bedroom.

3: Stair type was modified from straight up/down type to spiral stairs. This was necessary to accommodate a supporting beam obstructing the path of the previously considered straight up /down type of configuration.

(We have no knowledge of this matter and it does not affect us.)

Windows were removed from the living area downstairs. We removed the windows as we felt we had sufficient light and ventilation in this area. Further considering that the whole purpose of allowing us to build was to reduce noise for the neighbouring property we believed that none of the framed insulated wall in this living area would assist in noise reduction.

1: This makes no sense to us. This was a new area and the windows match in the number of windows shown on plans provided to us, although the position and possibly the size are not a true match.

5: We would request that council reconsider a placement of a (swale/dish drain) along the retaining wall. Our path is 1.3m wide and is shaded by the eaves which means that no grass can grow in this area which leaves it muddy in heavy rain. Instead we would request that council allow for the water to be collected by the drainage line that has been placed behind the retaining wall and dispersed further down the block etc.

This issue about grass serves to detract from the real issue of the impossibility of installing a dish drain (a condition of the approval of the retaining wall) because of completely changed form of the retaining wall that is said no longer allows its inclusion. The built retaining wall has no resemblance in any way to the one outlined in the application, nor does it include the remedial drainage features it was to include.

As well as ignoring the real issue of a non-compliant retaining wall the grass issue is surrounded by misinformation in that the path is about **1.7m to the inside of the retaining wall, not 1.3m as stated**, and this has **always been a grassed area**. In recent months the area has had heavy usage with literally dozens of barrow loads of blue metal and wood chip across it. The owner spread blue metal over the path during this time but **already the vegetation is growing again**.

We too have an area between the houses that tends to be saturated during wet weather as a result of the work undertaken by the owners of No 46 and we believe that a dish drain has the potential to provide some relief from the excess water in this area.

The Retaining wall as built

It should be noted here that the differently constructed retaining wall does not incorporate any drainage features to the best of our knowledge except a small section of pipe at the end of the wall. The present structure exacerbates the previous problems with considerable stormwater problems at both the front and this section toward the rear of the block and many points in between including the aforementioned area between the houses.

Instead of a retaining wall with stormwater drainage running to the front of the block it runs toward the rear of the block with the addition of an open dirt pit. A higgledy-piggledy row of Besser-style blocks sits on a base that tradesmen tell us is not adequate. Not all backfill has been removed as the owners were directed and there has been a blind-eye approach to the substantial amount of backfill at the rear of the block. The assertion that the stormwater cannot run to the front, whether this is correct or not, is no reason for allowing this substandard structure to remain when it has not been built according to the application and LCC determination.

While there have been claims of a pipe we are only aware of a short section at the end of the built retaining wall. Stormwater still comes over, under and through the retaining wall in many places suggesting any system that may be in place is not working. An unapproved open dirt pit that was not in the original application has been dug out at the end of the retaining wall and has created new stormwater problems by diverting running water over our block during even moderate rainfall. Our backyard becomes a sodden muddy mess during moderate rain and this is becoming a major concern during recent continuous rain. We are also concerned about the ongoing effects of substantial amounts of stormwater on the footings for our dwelling. (See attachment/ neighbour's letter)

We have to question the stability of the retaining wall as the blocks appear to be bulging towards our property in certain areas, indicating a problem in the structure of the wall.

It also concerns us that despite the condition that the work be carried out by a **licensed plumber** the work was done by the owner who is **not a licensed plumber**.

6: Retaining wall materials were modified from timber to stacker blocks wall, although much more expensive we believe it will last longer into the future with issues of rot, decay etc.

We agree with the use of Besser-style blocks for the same reasons expressed by the owners of 46 Nielson St, but to be effective they need to be installed correctly and these have

not. The removal of the backfill was haphazard and significant amounts also remain in several places. The problem has not been addressed at the rear of their block and poses a future threat to any fence. To simply dig it away from the fence at this point is a ridiculous solution.

It should also be noted here that a survey we had done on the fence line has shown there is **some encroachment of the retaining wall onto our property.**

Besides the lack of the correct base and the encroachment on our property, the structure is not even, has gaps in places and the bricks are simply stacked on top of one another with the vertical joints meeting for the several meters of the wall. It is in this area that the wall already appears to be bulging onto our property.

It should also be realised that this is not just a problem of rainfall in between our houses. Various works carried out by the owners of No 46 also effectively directs water from further up the hill, the road and footpath (see attached pic) and possibly still from their roof as a result of another blind-eye approach to a breach of another matter, all with the effect of directing large amounts of stormwater across our property and further down the hill. Attached pics clearly show the path of the stormwater.

SECONDARY ISSUES WITH POISONS

Poisons used uphill from us are being carried down hill from the adjoining property and possibly beyond and killing our plants. Our desire to adhere to organic gardening methods, particularly for vegetables, has rendered large sections of our backyard unsuitable for growing food plants because we know poisons have washed on to our property and we are unsure to what extent and how harmful they are.

CONCLUSION:

We request that the windows be removed and returned to a blank wall as previously existed. They are not necessary and have become a source of continual disturbance and sleep-disturbance on our property that contribute (with other nuisance factors from this development) to fatigue by people residing at our house. These property owners have previously demonstrated a lack of regard for our amenity and comfort over a number of years and we don't believe anyone could rely on their assurance of getting or using curtains. We are continuing to live through a similar ongoing problem relating to the upstairs area with inadequate window coverings, a reluctance to turn off lights and closing blinds after several years of waiting for window coverings in the first place.

The retaining wall structure as it exists bears no resemblance to the previously approved application for such a wall incorporating stormwater control features and does not have the remedial functions that were intended. It also encroaches on our property.

It is of great concern to us that the latest notification appears to condone this unacceptable structure with only the change to Besser-style blocks mentioned in the notification. While the intention of doing away with the dish drain on top of the wall was addressed in the application to LCC it was not mentioned in the notification to us. This effectively denied us the opportunity to speak to it. There appears to be no intention to address the breaches but instead to do away with a key condition should the inappropriate wall remain and would allow newly introduced problems such as an open dirt pit by simply ignoring it.

The wall as it exists is not only grossly ineffective but exacerbates the problems. The retaining wall should be reconstructed with the boundary of No 46 and built in such a way that it falls to the street and incorporates the previously planned stormwater features, including the crucial connection to the street stormwater as originally planned. Any change to these initial plans have never been put to us although it has a direct affect on us and our amenity and we are still being denied the opportunity to address these significant issues.

It is our belief that approval of this application as it stands would amount to a serious injustice and breach of process and we oppose it in its present form.

ENDS

Stormwater photographs



Stormwater photographs



Out of character building photograph



Report

Subject	2011-2013 Lismore Business Marketing Plan
TRIM Record No	BP11/403:EF09/1902
Prepared by	City Centre Manager
Reason	Endorsement of the draft 2011-2013 Lismore Business Marketing Plan
Community Strategic Plan Link	Sustainable Economic Growth and Development

Overview of Report

The 2011-2013 Lismore Business Marketing Plan (LBMP) provides the strategic direction for the Lismore Business Promotion Program which is funded by the Special Business Rate Variation Levy (SBRVL). The Lismore Business Promotion Panel (LBPP) is the body Council has set up to oversee the program and the City Centre Manager (CCM) is contracted to implement it.

Due to the two-year term of this Plan it contains an overarching strategic direction for Council's approval, with some examples of how this direction will be implemented. The key components contained within the Plan may therefore be amended by the LBPP or the CCM if needed due to shifts in the external, business environment or internal Council process.

A key element of this Plan is to provide multiple opportunities for the LBPP and the CCM to work with local business, Lismore City Council (LCC) departments, and community organisations or individuals on joint initiatives to ensure cohesion and unity. This Plan also draws on the outcomes of the recent Business Retention and Expansion Survey (BRE).

Background

The Lismore Business Promotion Program is governed by an eight member Lismore Business Promotion Panel (LBPP). The LBPP makes recommendations to Council on the direction of the Lismore Business Promotion Program and expenditure of funds. Council makes the final decision, based on the LBPP's recommendations. The LBPP (endorsed by Council), is currently comprised of five business representatives, one Councillor, one member of the Lismore Chamber of Commerce and the Executive Director Sustainable Development, who chairs the LBPP in a non-voting capacity.

A CCM, responsible for projects contained within the LBMP year-to-year, is also charged with carrying out the more strategic and long term process of City Centre Revitalisation. The City Centre Manager reports formally on a regular basis to the LBPP (at present, monthly) and from a management viewpoint more frequently to the Executive Director, Sustainable Development.

Proposed Business Marketing Plan

The 2011-2013 LBMP has been reviewed, workshopped and then revised by the LBPP. The LBPP is responsible for the direction and governance of the Lismore Promotion Program and the Business Marketing Plan. Through its representation on the LBPP the Lismore Chamber of Commerce (LCoC) has been invited to provide input into the content of the Plan and it has done so. Attached is a copy of the final 2011-2013 Lismore Business Marketing Plan for consideration (Attachment 1).

It is not planned to summarise or replicate the main points of the Plan in this report. However this report will identify some emerging trends, provide a progress report on the last Plan and cover some other matters. Please note the budgets for year one and year two of this 2011-2013 LBMP includes the SBRVL increase of \$100,000.

'City Centre' focus

Following on from the implementation of the 2010-2011 Lismore Business Promotion Program Business Marketing Plan, this 2011-2013 LBMP will continue to promote and activate the City Centre in order to achieve the vision of positioning Lismore's heart as a desired and vibrant destination within the region.

Trends emerging from the past 12 months

Observations and trends are summarised as follows:

- There have been a number of regular events and or groups who have received SBRVL funding for events, promotions and festivals in the City Centre. However, there has been little involvement outside the CBD.
- The business sector received the major portion of SBRVL funds in 2010-2011, for a number of retail shopping campaigns and promotions either directly coordinated by the City Centre Manager on behalf of the Lismore Chamber of Commerce, or with the Chamber's assistance.
- An increasing number of stores in the City Centre are reporting positive impacts from the City Centre niche markets either in terms of pedestrian traffic, trade or general sense of place.
- The Mother's Day promotion campaign focused on cafes, restaurants and retail stores being open on a Sunday. This was received well by both business and the general public. In particular the music at this event was popular and this aspect should be used in similar promotions.
- The City Centre 'Art in the Heart' project is continuing very well and gaining recognition, support and momentum (albeit limited numbers of premises to date). Since commencing this project the scope has broadened beyond only vacant commercial places to support artists and creative partnerships outside fixed premises such as Yarn Bombing for International Yarn Bombing Day on 11 June 2011.
- The collaboration between the Lismore Promotion Program and the Northern Rivers Conservatorium Arts Centre, resulting in a series of regular and ongoing 'Cushion CONcerts' has been extremely successful in attracting large audiences (once again music being a common theme of this success). NOTE: these CONcerts changed to Saturdays as the LBPP was keen to align these more with business hours in order to leverage advantage to the traders. Additionally the Con Artist Market, which is located in the Conservatorium grounds, is also growing.
- The '*Lismore – come to the heart*' brand has continued to be rolled out across a variety of media including television commercials for branding and campaign specific activities, press, radio, online, outdoor and in store media. We are also seeing an increasing number of businesses in the City Centre also using the brand.

Progress to date 'at a glance'

The abbreviated list below consists of all the components of the 2010-2011 Lismore Business Promotion Program Business Marketing Plan (and others not originally contained within the Plan that have occurred during the past year) with their status and brief explanatory notes.

Business Plan Item	Status	Notes
1. Marketing <ul style="list-style-type: none"> • Media spend • Brand awareness • Production – TVCs, press, commissioned photography • Communications • Pocket Guides 	Completed Completed Completed Completed Not completed	All of these activities will continue however Pocket Guides did not proceed due to no uptake from businesses.
2. Activities <ul style="list-style-type: none"> • Shopping Promotions • Lismore Lantern Parade • City Centre Markets • City Centre Entertainment • New events 	All Completed	All these activities have been successful and will continue in the 2011-2013 LBMP. Businesses and the community are positive about the benefits of the niche Markets and Entertainment.
3. Placemaking <ul style="list-style-type: none"> • Directional signage • Art in the Heart • Eat Street (Magellan Street) • Margaret Olley Arts Centre 	Not completed Completed Not completed Not completed	Signage is very expensive therefore alternative options are being looked into. Art in the Heart has been a success and is continuing. 'Eat Street' as in the reviewed outdoor dining policy met with some opposition from businesses and the name was changed to an entertainment/activity space but the regulatory concession was kept for this area e.g. parking and outdoor dining. The Olley Art Centre did not proceed.
4. 'Paint the Town' City Centre upgrade	Not commenced	Due to the workload in the plan this was not commenced. SBRVL increase in funds from 2010-2011 will be rolled over.
5. City Centre audits	Completed	Ongoing process, with positive results.
6. Publicity and PR	Completed	Ongoing: media clippings file available.

CCM is working closely with internal Council departments and local business and community groups in relation to City Centre activities, promotions, and cultural collectives.

Benefits for all businesses in the Lismore Urban Area

The purpose of the SBRVL promotion funding is to ensure Lismore retains its function as a regional centre. The revitalisation of the City Centre is recognised as being the key to this objective. Approximately 70% of all businesses in the Lismore Urban Area (LUA) are located within the City Centre and it makes good sense to direct the largest amount of effort and resources on the area where the majority of businesses are situated.

However, whilst the primary focus of this 2011-2013 LBMP will continue to be the City Centre, there are elements of the Plan which will benefit all businesses in the Lismore Urban Area. These include destination marketing, strategic advertising, the opportunity to participate in retail shopping campaigns, the website and specific promotions in Out of City Centre areas within the Lismore Urban Area. Secondly the '*come to the heart*' brand is being picked up in the tourism area to market the City as a whole as an important tourism destination.

Relationship between the various elements making up the 2011-2013 LBMP

The 2011-2013 LBMP is an umbrella document. It represents the strategic marketing direction of the 2011-2013 financial years of the Lismore Business Promotion Program. This Program is a vital component in the evolving Lismore City Centre Management Program as shown below:



Rationale behind the Lismore Business Promotion Program 2011-2013 LBMP

The 2011-2013 LBMP articulates the strategic marketing direction for the City Centre and out of city centre areas, as well as the City Centre Management Program. It establishes challenges, objectives, Key Performance Indicators, implementation components and budget for the two year period.

Links with other plans, documents and review mechanisms

This Business Marketing Plan has direct relevance to:

- Lismore City Council's "Community Strategic Plan 2008 – 2018";
- Lismore and Nimbin Tourism's 3 year Strategic Plan;
- other relevant tourism, event management, cultural (including Public Art), and economic development plans, documents and strategies;
- Lismore City Council's Outdoor Dining Policy;
- the Lismore Business Retention and Expansion Strategy (BRE) being project managed by Council's Business Facilitator;
- Lismore City Council's Events Strategy;
- Lismore City Council's Universal Development Application plan;
- the annual Lismore Lantern Parade and its governing board, LightnUp Incorporated;
- recent shopping promotions, in association with the Lismore Chamber of Commerce;
- Town Centre Management guidelines from Mainstreet Australia;

- best-practice town centre management, placemaking, community engagement and city centre renewal methodologies provided by ongoing research and also supplied by professional associations and other councils.

SBRVL funding application process

A system for the evaluation, provision and acquittal of SBRVL funds for approved events and promotions has been established and will continue. This system streamlines the process, removes any duplication and minimises administration costs to Council. There will also be a list of funding conditions that ensure that the principles and objectives of the business marketing plan are met in the event or activity i.e. use of branding and that the activity occurs in the City Centre.

Sustainability Assessment

Sustainable Economic Growth and Development

The 2011-2013 LBMP focuses on working with the Lismore City Council Business Facilitator, business groups, Events and Southern Cross University to facilitate methods for business growth. Activities may include joint events or providing in-kind or financial support.

Social Inclusion and Participation

The 2011-2013 LBMP also strongly focuses on working and developing relationships with community groups in the areas of sport, music, art, and youth/schools. Such relationships will enhance the City Centre and develop a positive community perception of the area as a desired place to engage in business and socialise and enjoy the products and services available.

Protect, Conserve and Enhance the Environment and Biodiversity

Throughout the 2011-2013 LBMP there is a sustainability element particularly in relation to placemaking, laneways and Southern Cross University. The focus is to seek out opportunities to include a sustainable focus to the activities which happen in the City Centre and where possible use best sustainable practices in addition to possibly developing a Sustainability Conference jointly with Southern Cross University.

Best-Practice Corporate Governance

The LBPP has developed and reviewed the 2011-2013 LBMP and from that perspective it has been drafted with best practice corporate governance in mind i.e. developed from representatives from the business community.

Comments

Finance

The 2011-2013 LBMP reflects the expenditure of the special business rate variation levy (SBRVL) collected from business rated properties in Lismore urban area. This includes an extra \$100,000 approved for 3 years from 1 July 2010. For 2011-2012, \$316,600 will be available and in 2012-2013, assuming rate pegging of 3%, \$326,100 will be available. In addition, it is likely that there will be unexpended funds carried forward from 2010-2011 to be expended during 2011-2013.

In regards to the extra \$100,000 approved for 3 years from July 2010, this can only be used for the purpose set out in the SBRVL application. These include promote brand, special events, markets, seed funding and promotional activities.

Other staff comments

Executive Director Sustainable Development

The 2011-2013 LBMP builds upon the successful best practice initiatives pioneered in earlier plans since the establishment of the CCM role i.e. promoting the new brand and creating activity in the City Centre.

The Plan also proposes new initiatives that particularly focus on partnering with key stakeholders such as educational institutions e.g. Southern Cross University graduation. The Plan explicitly reinforces the importance of strong internal working relationship on common projects such as the events calendar and branding between the CCM role, Lismore City Council's Events and Tourism units.

Public consultation

Both LBPP and the LCoC have been consulted.

Conclusion

The 2011-2013 LBMP consolidates and builds upon the sound principles and tasks of the former business plan (2010-2011). Both plans are underpinned by principles of placemaking, destination marketing, getting more activity in the City Centre and best practice branding.

Attachment/s

1. 2011-2013 Lismore Business Marketing Plan (Over 7 pages)

Recommendation

That Council adopt the '2011-2013 Lismore Business Marketing Plan' as outlined in the attached document subject to the approval of the 2011-2012 Operational Plan.

Report

Subject	Draft Arts and Culture Policy
TRIM Record No	BP11/288:EF09/1924
Prepared by	Lismore Regional Gallery Director
Reason	Seeking approval to put the draft policy on exhibition.
Community Strategic Plan Link	Develop and Support Art, Cultural, Sporting and Tourism Activities

Overview of Report

This report seeks Council endorsement of the revised draft Arts and Culture Policy.

Background

The current Arts and Culture Policy was last endorsed by Council on 9 November 2004 and requires revision. The draft policy is a broad document that establishes Council's support and commitment to Arts and Culture in the Local Government Area (LGA) and has an overarching two-fold focus:

- the provision of ongoing support for arts and cultural development within the local government area
- maintaining and developing appropriate infrastructure for community, cultural and arts events.

As the Lismore LGA has such a high proportion of people working in the creative industries compared to other regional areas, supporting arts and culture not only fosters community cohesion, but is an economic reality.

The policy also recognises the capacity for arts and culture to reach to other areas within Council such as tourism, events, sport, economic development and community engagement.

Sustainability Assessment

Sustainable Economic Growth and Development

Arts and cultural activities have a positive impact on the community and effectively assist with local and sustainable economic growth and development.

Social Inclusion and Participation

Arts and Culture are key drivers for bringing disparate elements of the community together. The Policy gives voice to all sectors of the community and commits to the preservation of Cultural Heritage.

Protect, Conserve and Enhance the Environment and Biodiversity

Not applicable.

Best-Practice Corporate Governance

The development of clear policies promotes best practice corporate governance.

Comments

Finance

There are no direct funding implications associated with this Policy. It is envisaged that should any initiative require specific funding, a submission to the annual operational plan process would be required.

Other staff comments

Not required.

Public consultation

The Arts and Culture Policy was developed by the Arts and Culture Policy Advisory Group and endorsed at its meeting on Wednesday, 20 April 2011.

Conclusion

The Arts and Culture Policy is an integral document that defines Council's commitment to arts and culture in the LGA.

Attachment/s

1. Draft Arts and Cultural Policy 8.5.1

Recommendation

That the draft Arts and Culture Policy be placed on public exhibition for a period of twenty eight days and be brought back to Council for finalisation.



POLICY MANUAL

POLICY NO:	8.5.1
OBJECTIVE:	To support and foster arts and culture in the Local Government Area
LINK TO STRATEGIC PLAN:	Develop and support art, cultural, sporting and tourism activities
PROGRAM:	Arts, Tourism and Leisure
AUTHORISED:	REVIEWED:

Lismore City Council commits to celebrating and strengthening our community by:

- providing ongoing support for arts and cultural development within the Local Government Area
- maintaining and developing appropriate infrastructure for community, cultural and arts events.

Context

Arts and cultural activity in Lismore, Nimbin and our villages foster community cohesion, well-being and local identity through creative practice and participation. Arts and culture also represent a growing sector of our economy.

This Policy is closely linked with other Council policies including those pertaining to public art, sport, tourism and events, economic development and community engagement.

Policy

In its decision making, Council will commit to:

1. recognising and valuing the traditional arts and cultural heritage of the Bundjalung people.
2. recognising the value that arts and cultural activities contribute to community and its health and well-being.
3. encouraging the pursuit of excellence in arts and cultural activities within the LGA and the region.
4. advocacy, promotion and communication to raise the profile of existing and emerging arts and cultural organisations.
5. creating opportunities for coordination and partnerships between existing and emerging organisations.
6. an integrated approach to 'whole-of-Council' planning for arts and culture.
7. increasing opportunities for all sections of the community, including young people, people with disabilities, people from Culturally and Linguistically Diverse (CALD) backgrounds, low-income- earners and transport disadvantaged to access and participate in arts and cultural activities.
8. encouraging expressions of identity that reflect local distinctiveness and diversity.
9. supporting the preservation of local cultural heritage.
10. enlivening public spaces by creating opportunities for everyday arts and cultural encounters.

11. capitalising on our arts and cultural identity in Lismore's marketing campaigns.
12. preserving and investing in the City of Lismore art collection.
13. supporting arts and cultural activities by the provision of resources that may include grants or in-kind assistance.
14. ensuring that wherever possible that our unique identity and culture are reflected in our public places and built environment through best practice place making and planning.

Report

Subject	Art Gallery café
TRIM Record No	BP11/369:T11/13
Prepared by	Lismore Regional Gallery Director
Reason	To seek approval to lease the Art Gallery café
Community Strategic Plan Link	Revitalise the CBD

Overview of Report

This report provides a summary of the negotiation process for leasing the Art Gallery café. Following two failed tender processes a subsequent Expression of Interest (EOI) has been received and assessed. The proposal is recommended for Council's endorsement.

Background

Council has been seeking a suitably qualified lessee to operate the Art Gallery café since October 2010. Two tender processes have been conducted, both of which failed to find a suitable lessee. The report presented to Council its ordinary meeting of 8 February 2011 stated that of the informal approaches received by Council following closure of the tendering process, only one was favourable.

The recommendations of Council at that meeting were that:

1. *In accordance with Clause 178(1) (b) of the Local Government (General) Regulation, Council decline to accept any tenders for T2011-13 – Lease of the Art Gallery Café.*
2. *In accordance with Clause 178(3) (e) of the Local Government (General) Regulation, Council resolve to enter into negotiations with the respondent to the second formal tendering process as well as the late submissions/informal expressions of interest received after the close of tenders as outlined in the confidential attachment.*
3. *In accordance with Clause 178(4) (a) of the Local Government (General) Regulation, the reason that Council will not call fresh tenders for the lease of the café are that two tender processes have already been conducted and a satisfactory outcome has not been achieved through those processes.*
4. *In accordance with Clause 178(4) (b) of the Local Government (General) Regulation, the reasons that Council will enter into negotiations with the identified parties are that:*
 - a. *all parties have demonstrated an interest in leasing the facility.*
 - b. *a satisfactory outcome can be achieved through a negotiation process.*
5. *The General Manager be delegated authority to undertake the negotiations and finalise a suitable outcome for lease of the Art Gallery Café on behalf of Council.*

Point 2 of the above recommendations allowed for Council to enter into negotiations with parties who had expressed interest in the facility. At the time the only favourable option withdrew their interest.

Subsequent to this process, Council received an Expression of Interest (EOI) from a suitably qualified and experienced chef who presented a proposal, business plan and two year cash flow statement. This EOI falls outside of the formal tendering process and accordingly approval is sought for Council to enter into a leasing arrangement with this potential lessee.

The proposal

Perry Hill and Sally Lewington have proposed a café/restaurant that will work symbiotically with the Gallery. Trading hours will reflect the Art Gallery's opening hours. The venue will be a quality dining and bar experience that will capitalise on its location within Lismore Spinks Park precinct.

The food will be sourced from local growers and producers, supporting the local community and organic movement. Sapore will serve high quality dishes with warm yet efficient service at affordable price points that fit in with the local demographic. Daily menus inspired by seasonal availability will be our point of difference.

Perry is a multi-award winning Executive Chef who has recently moved back to the Northern Rivers where he grew up. His employment history includes:

- Chef De Partie – CBD Restaurant Sydney
(awarded one Hat by the Sydney Morning Herald Good Food Guide three years running)
- Head Section Chef – MG Garage Restaurant, Surry Hills, Sydney
(Condé Naste traveller listed MG Garage as one of the top 50 restaurants in the world in 1999)
- Chef – River café, Hammersmith, London
(held a coveted Michelin star)
- Sous Chef – Luke Mangan Corporation, Bistro Lulu, Salt
(Bistro Lulu awarded one Hat by the Sydney Morning Herald Good Food Guide 4 years running)
- Executive Chef – Boathouse Restaurant on Black wattle Bay
(named Best Seafood Restaurant in Australia, by the Australian Restaurant and Caterers Association)
- Executive Chef – The Point, Ballina.

The applicant intends to operate the following hours:

Mondays and public holidays: Closed

Tuesday, Wednesday: 8.00am – 4.00pm

Thursday, Friday and Saturday: 8.00am – 10.00pm

Sunday: Possibly 10.00am – 2.00pm, to be negotiated and confirmed with Lismore Regional Art Gallery.

Terms

The proposed lease terms, negotiated with the applicant, are:

Year 1:	\$5,000
Year 2:	\$10,000
Year 3:	\$10,000 + CPI
Year 4:	\$20,000 + CPI
Year 5:	negotiated market rate.

Extensive fit out costs including new kitchen equipment will be the responsibility of the applicants.

Sustainability Assessment

Sustainable Economic Growth and Development

The café lease generates income, resulting in a positive economic outcome for Council. The location adjacent to the Art Gallery has a positive effect for patrons of the Gallery, and the wider Spinks Park precinct. A new café will provide employment opportunities for two full time and two part time staff – in addition to the two applicants.

Social Inclusion and Participation

The proposal is socially inclusive, providing dining experiences for a wide variety of diverse clientele.

Protect, Conserve and Enhance the Environment and Biodiversity

Local produce will feature on the menu and will contribute to the interconnectedness of Lismore's diverse communities.

Best-Practice Corporate Governance

The proposal reflects the effective use of Council resources.

Comments

Finance

While the proposal from Perry Hill and Sally Lewington will require Council to accept a reduced rental and outgoing return for Year's 1, 2 and 3, it is supported due to the potential return in Year 4 and beyond. Another important consideration is the fact that Council is not required to make a café fit out investment with this proposal.

Other staff comments

Executive Director Sustainable Development

My comments are from the perspective as Chairperson of the Lismore Business Promotion Panel. The Lismore Alive report and the recently adopted reviewed outdoor dining policy are underpinned by the principle for the need to promote the Spinks Park precinct and the former High School site (joined by Magellan Street) as the two key public spaces in the CBD. Obviously the lease of this building in a prominent place in Spinks Park is critical to this strategy.

The potential lessee would not only be ideal from an Art Gallery perspective given their high calibre but also in terms of getting greater weekend dining and reinforcing the proposals that are under consideration in the 2011/12 budget i.e. the Art Gallery Sunday trading proposal and the Spinks Park revitalisation plan. In terms of these items the potential lessee has indicated a willingness to consider Sunday trading as well as a strong commitment to being involved in activating Spinks Park. From this perspective I would strongly support this lessee's proposal.

Manager Assets

Council has now had two unsuccessful attempts through tender processes to secure a lessee for the Art Gallery café. In order to facilitate the recommended course of action and ensure compliance with the Local Government Act it is necessary for Council to formally resolve to enter negotiations with the party identified.

It should also be noted that two leases will be required. A separate lease is necessary for the crown land on which the majority of the café building is located. As such any decision of Council taken in regard to this portion of land is taken as Reserve Trust Manager for Spinks Park.

The second lease is for a small portion of land at the rear of the building, and the use of the toilets in the art gallery which are located on Council owned land.

In the event that a satisfactory outcome cannot be achieved through this process, it is recommended that Council list the property with a local real estate agent in an attempt to lease the facility.

Public consultation

Not required.

Conclusion

The Art Gallery café has been vacant for some months, which has been detrimental to the Gallery's visitation and the general look and feel of the area within the central business district precinct. A quality café/restaurant catering to diverse clientele will be beneficial to the Art Gallery as well as enhancing Lismore's food and dining reputation. The lease arrangement presents a low risk opportunity for Council.

Attachment/s

There are no attachments for this report.

Recommendation

That Council as Reserve Trust Manager for Spinks Park:

1. Having conducted two unsuccessful tender processes in an attempt to secure a lessee for the Art Gallery Café, resolve in accordance with section 178(3) (e) of the Local Government (General) Regulation, to enter into negotiations with Mr Perry Hill and Ms Sally Lewington.
2. In accordance with Clause 178(4) (a) of the Local Government (General) Regulation, the reason that Council will not call fresh tenders for the lease of the café is that two tender processes have already been conducted and a satisfactory outcome has not been achieved through those processes.
3. In accordance with Clause 178(4) (b) of the Local Government (General) Regulation, the reasons that Council will enter into negotiations with the identified party is that:
 - a. negotiations with all other parties identified in the earlier consideration of this matter by Council have failed to deliver a suitable outcome for Council and the Reserve Trust.
 - b. the party has submitted an unsolicited proposal to Council which appears to be satisfactory.
 - c. a satisfactory outcome can be achieved through a negotiation process.
4. The General Manager be delegated authority to undertake negotiations with Mr Perry Hill and Ms Sally Lewington and finalise a suitable outcome for lease of the Art Gallery Café on behalf of Council and the Reserve Trust.
5. In the event that negotiations with Mr Perry Hill and Ms Sally Lewington are not resolved, or fail to progress to the satisfaction of Council, the General Manager be authorised to conduct an advertising program with a commercial real-estate agent, to find a suitable lessee for the Art Gallery café.
6. If and when an advertising program proceeds, and suitable respondents are identified, the General Manager be authorised to finalise negotiations on behalf of Council and the Reserve Trust and enter into a lease for the Art Gallery café, with any preferred respondent to the advertising program.
7. The common seal of Council be applied to any necessary documentation as required.

Report

Subject	Annual Remuneration Fees for Mayor and Councillors
TRIM Record No	BP11/376:EF09/643
Prepared by	Corporate Compliance Coordinator
Reason	To adopt Mayoral and Councillor Fees for 2011/12 financial year, as per the determination by the Local Government Remuneration Tribunal
Community Strategic Plan Link	Best-Practice Corporate Governance

Overview of Report

The Local Government Remuneration Tribunal each year determines the range of annual fees to be paid to Mayors and Councillors. Council needs to determine within the category range the fees to be paid.

Background

Pursuant to Section 241 of the Local Government Act 1993, the Local Government Remuneration Tribunal has determined the annual fees to be paid to Mayors and Councillors during the period 1 July 2011 to 30 June 2012. The Tribunal has determined that there will be an increase of 4.2 percent for all minimum and maximum fees for Councillors.

Lismore City Council is categorised as a Regional Rural Council and Council needs to determine the annual fee to be paid within the minimum and maximum range as determined by the Tribunal. If Council does not fix a fee, the amount defaults to the minimum.

Council will note that the rate pegging limit has been fixed at 2.8 percent.

Councillor Fee

The Councillor fee for Regional Rural Councils is a minimum fee of \$7,550 and a maximum fee of \$16,640. The current fee as determined by Council for the 2010/11 financial year is the maximum fee of \$15,970.

Mayoral Fee

The Mayoral fee for Regional Rural Councils is a minimum fee of \$16,080 and a maximum fee of \$36,320. The current fee as determined by Council for the 2010/11 financial year is the maximum fee of \$34,860.

Sustainability Assessment

Social Inclusion and Participation

For Council to attract Councillors that accurately reflect the social diversity of the community then adequate remuneration needs to be paid.

Best-Practice Corporate Governance

Council is required to determine a fee. If Council chooses not to determine such a fee, the minimum fee will apply.

Comments

Finance

The draft 2011/12 Budget provides for the current allowance for the Mayoral and Councillor fees. If Council adopted the maximum allowance for 2011/12 there would be an unfavourable impact on the draft 2011/12 Budget of \$1,400 for the Mayoral fee and \$7,400 for Councillor's fees.

Public consultation

Council has undertaken no consultation with the public.

Attachment/s

There are no attachments for this report.

Recommendation

That Council determine the fees payable for Councillors and the Mayor for the 2011/12 financial year.

Report

Subject	Tender T2011-18 - Supply of Two Graders
TRIM Record No	BP11/402:EF11/36
Prepared by	Manager - Commercial Services
Reason	To seek approval from Council for the purchase of two graders.
Community Strategic Plan Link	Efficient Use of Council Resources

Overview of Report

Several tenders for large plant were advertised during March 2011. This report outlines the assessment process and results for two graders.

Background

As part of the 2010/11 Plant Replacement Plan several tenders were called in March 2011. Tenders for two rollers and three trucks were reported to the May 2011 Council meeting. A tender for two graders has now been evaluated and is reported here.

These tenders were conducted under the Local Government Procurement process. Local Government Procurement Pty Ltd CAN 117 201 046 (LGP) was established in June 2006 (and prescribed as a bulk purchasing organisation on 18 August 2006), to provide a fully integrated procurement service to councils in NSW. The company was formed by the Local Government and Shires Associations of NSW on behalf of its members to create a full service procurement operation dedicated to meeting the specific needs of Local Government.

Councils in NSW are required to invite tenders before entering into certain contracts under Section 55 of the *Local Government Act* 1993. However, councils can utilise supply arrangements procured by LGP without the need to go to tender in their own right.

In conducting the tender process LGP aims to undertake processes which reflect best practice in local government procurement and address relevant probity considerations.

Ten Year Plan

Council owns five graders of which four are overdue for replacement based on standard replacement criteria. The 2010/11 Ten Year Plant Replacement Plan included the replacement of two graders – Plant Items 301 and 322.

Plant Item 301 is a 1967 Allis Chalmers grader with extremely low hours of use for many years. It is a small grader used mainly for urban area trim jobs. The estimated replacement cost for this item was \$80,000. Based on discussions with the Manager-Works as to the need for this machine, it was decided to conduct further assessment of alternatives for Plant Item 301. These are ongoing and are expected to take some time.

Therefore to allow the replacement program to continue on track, Plant Item 301 has been deferred to the 2011/12 Plan and Plant Item 309 – the rural roads grader – was brought into this financial year. The replacement cost for Plant Item 309 is estimated at \$340,000. The overall program is still within the 2010/11 Plant Replacement budget.

T2011-18 - Two Graders of 16 Tonne Gross Mass

This tender is to replace two existing plant items:

1. Plant Item 309 is a Caterpillar 12H grader purchased in February 2002. It has 9,767 hours recorded. Principally it is used for maintenance grading of rural roads and tows a multi tyred roller. This allows for the grader to grade and roll the road in a single pass. The roller is interchangeable with rear rippers.
2. Plant Item 322 is a Caterpillar 120H grader purchased in May 2000. It has 10,632 hours recorded. Principally it is used for road construction works and has rear mounted rippers.

Both of these plant items are used by the Works Section. They are major items of equipment essential in a range of road construction and repair situations. They have satisfied industry standard replacement criteria for large construction equipment of eight to ten years and/or 10,000 hours. The proposed new motor graders will be scheduled for a similar replacement period.

A variation from the current configuration is to attach mid-mounted rippers in front of the blade on the replacement for Plant Item 309 to increase the versatility of this machine without the need to remove the rear roller and rippers each time this is needed.

Submissions to the tender were received from:

1. Hitachi Construction Machinery
2. Westrac
3. Komatsu
4. CJD Equipment

Tender Evaluation

Assessment of the tenders was conducted by fleet and operations staff in accordance with Council purchasing procedures. The tenders were evaluated using the following weighting base:

❖ Price	40%
❖ Capability	40%
❖ Quality & Safety	5%
❖ Environment and Community	5%
❖ Local Content	10%

Each of the assessment summary sheets is attached for review but the key criteria taken into account in conjunction with price were:

- ❖ Actual performance. Field trials were conducted by council staff on all four machines. The operators were unanimous in their preference for the John Deere machine based on smoothness of operation of the machine, ease of use of the controls and visibility.
- ❖ Ergonomics of the cabins including size; ease of entry/exit; placement of controls; and operator comfort levels. Again the John Deere performed best in these areas.

Sustainability Assessment

Sustainable Economic Growth and Development

New equipment generally infers newer technologies and increased operational efficiency. Maintaining an up to date fleet upholds efficiency levels throughout Council's operations.

Protect, Conserve and Enhance the Environment and Biodiversity

Regular updating of equipment means that the latest environmental standards are introduced into the fleet. The proposed new graders meet the Euro 5 emissions standards.

Best-Practice Corporate Governance

Council's ten year fleet replacement plan sets out approximate times for the replacement of each plant item. Staff are continuing to work towards bringing the fleet into line with this plan and these items were identified as being due or overdue for the 2010/11 replacement plan. Operating a ten year plant replacement plan is considered a key best practice activity for councils.

Comments

Finance

The total purchase price of the plant listed is approximately \$668,100. This investment will be partially offset by the proceeds from auctioning the plant items being replaced.

The 2010/11 Budget anticipated the replacement of two graders as part of the 2010/11 Plant Replacement Program. Even though Plant Item 309 is being replaced instead of Plant Item 301, and the budget anticipated a gross cost of \$393,000 compared to an actual of \$668,100, there are sufficient funds available for this purchase in the Fleet Operations Reserve.

Public consultation

Not required.

Conclusion

The plant items listed in this report were scheduled for replacement this year. By advertising a bulk tender we have been able to reduce workloads and turn around times, both for the tenderers and Council staff. Some of the components of these tenders have been more complicated and assessment is still proceeding with the expectation that these items will be reported to the July 2011 Council meeting.

From the assessment process the recommended purchase is for two (2) John Deere 670G graders, one with mid mounted rippers and one with rear mounted rippers.

Attachment/s

1. Tender Scoring T2011-18 - Supply of Graders

Recommendation

That Council:

1. Accept the following tendered offer by:
 - a) Hitachi Construction Machinery for two (2) John Deere 670G graders at a total cost of \$668,100.00 plus GST.
2. Sell via auction:
 - a) Plant No. 309, a Caterpillar 12H grader.
 - b) Plant No. 322, a Caterpillar 120H grader.

Tender T2011-18 Description of Tender 2 X Graders 16GVM

Tendered by:	Hitachi Construction	WesTrac	Komatsu	CJD Equipment
Make:	John Deere	Caterpillar	Komatsu	Volvo
Model:	670G "G Series"	140M	GD555-5	G930
Tender Price:	\$668,100.00	\$800,600.00	\$675,000.00	\$646,000.00

	Criteria	Weighting from Tender Docs	Tender 1		Tender 2		Tender 3		Tender 4	
			Raw Score	Weighted & calculated						
1	Total Price (out of 10; against average)	40%	7.3	2.92	6.8	2.72	7.3	2.92	7.4	2.96
2	Capability and Experience (out of 10)	40%	8.0	3.20	7.0	2.80	6.2	2.48	5.8	2.32
3	Quality and Safety (out of 10)	5%	8.0	0.40	6.0	0.30	7.0	0.35	7.0	0.35
4	Environment and Community (out of 10)	5%	5.0	0.25	5.5	0.28	5.0	0.25	5.0	0.25
5	Local Content Minimum 10% (out of 10)	10%	6.0	0.60	5.0	0.50	7.0	0.70	5.0	0.50
		100%		7.37		6.60		6.70		6.38
Overall score out of 100				73.70		65.95		67.00		63.80

Report

Subject	Tender T2011- 26 - Supply of Pre-stressed Concrete Bridge Girders
TRIM Record No	BP11/400:T11/26
Prepared by	Rural Works Engineer
Reason	To inform Council of tenders received for the provision of pre-stressed concrete bridge girders.
Community Strategic Plan Link	Improve Roads, Cycleways and Footpaths

Overview of Report

This report details the evaluation of tenders received in relation to the provision of pre-stressed bridge girders and a recommendation to award the tender.

Background

A tender for the Supply of Pre-stressed Concrete Bridge Girders was recently invited for Myotts Bridge, Repentance Creek, which is due for replacement under the Regional Roads Timber Bridge Replacement Program.

The request for tender was advertised in the '*Weekend Star*', the '*Echo City News*' and the '*Sydney Morning Herald*', as well as "Tenderlink" through Lismore City Council's web page.

Tender documents were received from two (2) companies by the close of tender on 2.00pm, Thursday, 19 May 2011.

Tenderers:

1. Con-Tec Pty Ltd
2. Richmond Valley Council

Tender Examination

An evaluation panel comprising the Contracts Administration Officer, Rural Works Engineer and Bridge Supervisor undertook the assessment of tenders.

Tenders were invited on a Schedule of Rates basis for the supply of the pre-stressed concrete bridge girders.

The tender documents (Clause B7), defined five (5) areas by which each tender would be assessed:

1. Total Price

A price comparison was undertaken on each tenderer for the supply of the pre-stressed concrete bridge girders. The totals for each tenderer are as follows:

- o Con-Tec Pty Ltd \$214,800.00 Exclusive GST
- o Richmond Valley Council \$427,605.69 Exclusive GST

2. Capability and Experience

Both tenderers have a demonstrated ability to supply the product with a broad range of technical expertise and experience within the industry and have been manufacturing pre-cast concrete products for in excess of 20 years. Both tenderers have also previously supplied Council with concrete pre-stressed bridge components for other bridges completed under the same timber bridge replacement program.

3. Quality and Safety

Both tenderers have demonstrated significant experience in supplying their products for a large range of infrastructure projects for various councils and contractors. Both have demonstrated an ability to supply a quality product in accordance with OH&S systems with Con-Tec Pty Ltd having external accreditation for its quality systems.

4. Environment and Community

All tenderers showed an adequate level of awareness of environmental issues and sustainability.

5. Local Content

Due to the nature of the product, manufacturers are mainly based in the larger metropolitan areas. Richmond Valley Council is the only tenderer that utilises local labour and materials.

The rates tendered by Con-Tec Pty Ltd resulted in the lowest costs for the girders. Considering the remaining evaluation criteria specified in the tender (Capability & Experience, Quality & Safety, Environment & Community, and Local Content), Con-Tec Pty Ltd is also the highest ranked tenderer (refer Attachment 1).

Sustainability Assessment

Sustainable Economic Growth and Development

This proposal will enhance the amenity of the community by providing a safer and improved bridge network.

Social Inclusion and Participation

The project directly relates to Improving Roads, Cycleways and Footpaths under the Community Strategic Link Plan.

Protect, Conserve and Enhance the Environment and Biodiversity

The timber bridge replacement program reduces the need for timber products to be used to maintain Council's bridge network.

Best-Practice Corporate Governance

Works will be undertaken in accordance with industry guidelines for bridge construction best practise.

Comments

Finance

An open tender process is likely to achieve the best value for Council for these works. As such, the recommendation is supported.

The budget for Myotts Bridge replacement is \$1,300,000 and this is funded 50% by the RTA and 50% by Council.

Other Staff Comments

Manager - Works

Con-Tec Pty Ltd has manufactured pre-stressed concrete bridge girders for a number of Council's bridge projects and has demonstrated a high level of expertise and professionalism to date. Con-Tec Pty Ltd has also completed other major infrastructure projects both in Northern NSW and Southern Queensland for in excess of 20 years resulting in extensive capability and experience in this field.

I endorse the recommendation.

Public Consultation

Nil

Conclusion

Con-Tec Pty Ltd has ranked first in the evaluation criteria. In addition, Con-Tec Pty Ltd has provided the lowest price for the manufacture of the pre-stressed concrete bridge girders for Myotts Bridge.

Con-Tec Pty Ltd has demonstrated its capability and experience to supply Council with the pre-stressed concrete bridge girders as outlined in this request for tender and is able to supply the girders in a time frame that is suitable to Council's requirements.

Attachment/s

1. Raw Score Sheet - Tender T2011-26 Myotts Bridge Girders

Recommendation

That:

1. The contract for the supply of pre-stressed concrete bridge girders for Myotts Bridge outlined as part of the Regional Roads Timber Bridge Replacement Program be awarded to Con-Tec Pty Ltd with the total price of works being \$214,800.00 (exclusive of GST), based on the tender submission.
2. The General Manager on behalf of Council be authorised to execute the contract and attach the Common Seal of the Council.

T2011-26 Raw Score Sheet - Myotts Bridge

Bridge Girders

Criteria	Weighting	Con-Tec Pty Ltd		Richmond Valley Council		
		Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	
1	Total Price (out of 10)	40%	7.86	3.14	5.74	2.30
2	Capability and Experience (out of 10)	30%	9	2.70	9	2.70
3	Quality and Safety (out of 10)	10%	9	0.90	8	0.80
4	Environment and Community (out of 10)	10%	7	0.70	8	0.80
5	Local Content Minimum 10% (Out of 10)	10%	6	0.60	9	0.90
		100%		8.04		7.50
Total 100% or 100				80.44		74.96

Report

Subject	Tender T2011-17 - Lease of Nimbin Caravan Park and Operation and Maintenance of Nimbin Public Pool
TRIM Record No	BP11/404:T11/17
Prepared by	Contracts Administration Officer
Reason	To advise Council of some issues identified in relation to the preparation of the lease and the outcome of discussions with the preferred tenderer in regard to maintenance of the pool.
Community Strategic Plan Link	Best-Practice Corporate Governance

Overview of Report

This report details the progress of negotiations and preparations of a lease for the Nimbin Caravan Park (the Park) and operation and maintenance of the Nimbin Public Pool (the Pool) by the same tenderers, Ms Christine Seymour and Mr Peter Mann, under a service level agreement structured into the lease agreement.

Background

At the ordinary meeting held on 12 April 2011 Council resolved that:

- “1. In accordance with Clause 178(1) (b) of the *Local Government (General) Regulation*, Council decline to accept any tenders for T2011-17 – Lease of Nimbin Caravan Park.
2. In accordance with Clause 178(3) (e) of the *Local Government (General) Regulation*, Council resolve to enter into negotiations with Ms Christine Seymour and Mr Peter Mann for the lease of the Nimbin Caravan Park and the operation of the Nimbin Pool Complex.
3. The General Manager be authorised to finalise negotiations and enter a contractual agreement subject to completion of a satisfactory financial background check of the preferred tenderer and the receipt of legal advice from Council’s solicitor on the form of the contractual agreement.
4. In accordance with Clause 178(4) (a) of the *Local Government (General) Regulation*, the reasons that Council declines to invite fresh tenders are that:
 - Council has already conducted a tender process and received an adequate response;
 - the respondents to the tender process are capable of delivering the services that Council requires;
 - some matters need to be resolved and clarified prior to entering into a contractual agreement;
 - those matters are not of a nature that significantly alters the content or requirements of the tender.

5. In the event that the financial background check is not satisfactory, or any other aspect of the negotiations with the preferred tenderer cannot be resolved to the satisfaction of Council, the General Manager be authorised to conduct negotiations for a suitable outcome on either the lease of the Caravan Park, or the operation of the pool complex, or both with the second preferred tenderer, Ms Jennene Matteson and Mr Wayne van Boheemen.”

Operators Team Meeting

Council staff met with Ms Christine Seymour, Mr Peter Mann and Mr David Thompson, (Mr Mann's proposed onsite manager) on 28 May 2011 to discuss matters that required clarification prior to entering into a contractual agreement. The meeting was very positive and many issues were resolved to the satisfaction of both parties. The only outstanding issues now relate to the structure and form of the lease agreement.

Council's solicitors are currently preparing the agreement and it is expected that a draft will be forwarded to the lessee well in advance of the Council meeting of 14 June 2011. It should be noted that the lease is due to commence on 1 July 2011.

Financial Background Check

The financial background check on Mr Peter Mann was completed in May 2011 and did not reveal any financial risk.

Development of the Caravan Park Lease Agreement

Council engaged the services of McCartney Young Lawyers to prepare a lease agreement. The lease agreement will be structured to specify the operator will lease both the Park and the Pool, as a whole complex. The Park will be operated under a general lease arrangement with an embedded service level agreement for the operation and maintenance of the Pool. The lease will also include Key Performance Indicators (KPIs) developed in conjunction with the operator, to monitor customer service and operation levels.

A lease for the entire complex is necessary to ensure compliance with the *Local Government Act* and give certainty to the lessees to operate their business. It also strengthens Council's position in regard to the agreement for maintenance of the Pool. Specific requirements will be placed in the lease agreement to ensure that access and use of the Pool remains available to the general public free of charge.

The proposed lease term would be seven (7) years with two, seven-year options (total 21 years). The three, seven-year periods provide longevity to the lessee specifically around return on investment for the intended level of financial outlay to upgrade the park and facilities.

The KPIs currently under consideration for inclusion in the lease include but are not limited to:

- Undertake the physical improvements as outlined within the tender submission and scheduled in the lease agreement e.g. refurbish amenities block etc.
- Minimum 3 Star rating to be achieved within two years of commencement of the lease.
- Feedback from Visitor Information Centre on experience of patrons at the park:
 - Six-monthly catch up with Nimbin Visitor Centre Coordinator to discuss joint promotions and ongoing improvements at the caravan park from a tourism point of view.
- Qualifications/ training of staff.
- Survey/ feedback mechanism from patrons.
- Complaints handling procedure.

Operation and Maintenance of Nimbin Public Pool

Further to the report for the Ordinary meeting held on 12 April 2011, Council staff received a formal submission prepared by Ms Christine Seymour and Mr Peter Mann for the operation and maintenance of the Pool. The submission proposes that Mr David Thompson (Mr Mann's proposed onsite manager of the Park), will operate and maintain the Pool in conjunction with operating the Park. The proposed annual fee for operating the Pool will be \$16,350.00 (plus GST). This cost is for the labour component only of managing the pool. Council will continue to meet the cost of consumables e.g. chlorine, chemicals etc. Council will also be responsible to meet the cost of any unforeseen maintenance activities e.g. pump breakdowns, dosing plant issues, serious vandalism etc.

There is a certain amount of synergy between the Park and Pool and it makes good operational sense to have the complex managed by the same party.

Sustainability Assessment

Sustainable Economic Growth and Development

The lease of the Park would be income producing, resulting in a positive outcome for Council. The Park is an important tourist attraction in Nimbin and increased patronage of the Park will economically benefit the village.

Additionally, improvements to the Park would potentially encourage more visitors to the village and increase economic activity for other local businesses. The work required to undertake improvements would also potentially be carried out by local tradespeople.

The operation and maintenance of the Pool will continue to be fully funded by Council and operated and maintained by the lessee of the Park under a service level agreement structured into the lease agreement.

Social Inclusion and Participation

The Park provides affordable accommodation for a number of long term residents. Lease of the facility will not alter this arrangement in the short term. The RFT documentation advised that there were long term sites in the Park and existing residents have protection under the terms of their existing site agreements and the *Residential Parks Act, 1998*.

Protect, Conserve and Enhance the Environment and Biodiversity

The lessee will have sustainability and environmental responsibilities embedded in the lease agreement. The proposal is not considered to have any negative or positive effects on the environment or biodiversity.

Best-Practice Corporate Governance

An open tender process was the most transparent method to appoint a new lessee for the Park and a manager for the Pool complex. Council's solicitors are advising Council on the structure and content of the lease agreement to ensure compliance with the relevant legislation, that Council's interests are protected and its objectives are achieved.

Comments

Finance

Council's draft 2011/12 Budget allows sufficient funds for the management, maintenance and operation of the Nimbin Pool.

Other staff comments

Tourism Services Coordinator

The Tourism unit is supportive of the new arrangements for the Nimbin Caravan Park and Nimbin Swimming Pool. We look forward to working with the lessees in offering great facilities for visitors and locals.

Public consultation

Not applicable.

Conclusion

Council has finalised negotiations with the preferred tenderer for the lease of the Nimbin Caravan Park and operation of the Nimbin Pool. In order for Council to comply with the *Local Government Act*, the lease must be for the entire facility. Specific protection will be included in the lease to ensure that the pool remains open to the public free of charge.

Attachment/s

There are no attachments for this report.

Recommendation

That:

1. The report be received and noted.
2. The General Manager continue to progress the matter in accordance with Council's decision of 12 April 2011, noting that a lease agreement is now proposed for the entire Caravan Park and Pool Complex.
3. The General Manager be delegated authority to finalise details and proceed to execute the lease agreement and any other required documentation, under the common seal of Council.

Report

Subject	Tender T2011-28 - Cleaning Services
TRIM Record No	BP11/406:T11/28
Prepared by	Contracts Administration Officer
Reason	To endorse procurement of cleaning services for Council through the NSW State Government Contract.
Community Strategic Plan Link	Best-Practice Corporate Governance

Overview of Report

This report is seeking endorsement from Council for the utilisation of the NSW State Government Contract for Cleaning Services, thus avoiding the need to conduct time-consuming and protracted tender processes of our own. This is permissible under the provisions of the *Local Government Act, 1993*.

Council's current supplier of cleaning services, ISS Facilities Services, is the regional supplier under the NSW State Government contract.

Background

Councils in NSW are required to invite tenders before entering into certain contracts under Section 55 of the *Local Government Act, 1993*. However, councils can utilise supply arrangements procured by the NSW Department of Commerce without the need to tender in their own right.

In December 2010 Council staff met with Mr Bill Weir, Senior Inspector - Facilities Management Group, NSW Public Works - Services Technology and Administration in Lismore, to discuss Council involvement in its upcoming cleaning contract. At that time, the NSW State Government cleaning contract had six months to run (to 30 June 2011), and a tender was in progress for a new contract commencing 1 July 2011. The new contract is for a period of up to seven (7) years. This includes a three-year break point, followed by a series of 'options' up to a total of seven years.

At the meeting it was determined that for Council to join the contract expiring 30 June 2011 for a six-month period would not be practical as it would incur significant fees for implementation. It was decided that Council would be better served to wait for the new contract as implementation fees would be amortised over a seven-year contract period.

The new Government Cleaning Contract is based upon geographical regions and as part of the tender process each region is awarded to one contractor. In the case of the Lismore Local Government Area, ISS Facilities Services is the contracted supplier for the Northern NSW Coast and New England regional areas.

The new contract includes a list of variation rates for additional sites that could be added during the contract period. The contract pricing is based upon the tendered schedule of rates for a square metre of various cleaning categories, e.g. carpeted office, tiled bathrooms, common areas of buildings etc.

NSW State Government contracts are generally regarded as offering excellent value for money. Significant economies of scale are achieved through the amount of work that a successful contractor can secure under these contracts. It is considered highly unlikely that Council could achieve a similar or better result through conducting a separate tender process for the work.

In addition, Council gains the benefit of the administrative processes employed by the Department of Commerce in awarding and administering the contract. This would include assessment of the tenders received, assessment and audit of OHS and quality systems, audits of performance, and administration and assessment of any variations to the contract. This represents a significant saving to Council in regard to staff time that would otherwise be required to perform these tasks.

Council's Current Cleaning Provider

ISS Facilities Services has successfully supplied cleaning services to Lismore City Council for the past ten years. The company is currently providing cleaning services on a month by month basis until Council undertakes the necessary process to award a new contract. ISS currently cleans more than 25 Council buildings and employs 184 cleaners to meet their various cleaning contracts.

Should Council choose to endorse the use of the State Government Contract, ISS would continue to undertake the work it has always undertaken. Some administrative procedures and the charging methodology would alter to bring them into line with the State Government Contract.

Whilst it is not possible at this time to accurately estimate the total costs to Council of the proposed cleaning regime, the contract has enough flexibility to allow modifications to the level of service to be undertaken to ensure that the total cost to Council is within its current budget allocations.

Sustainability Assessment

Sustainable Economic Growth and Development

The engagement of ISS Facilities Services and use of the NSW State Government contract is a positive outcome for local businesses and the community. It will support an already well-established service provider to Council and the company also supplies services to local hospitals and the Education Department. In total, ISS works at 263 sites in Lismore and surrounds and specifically employ 184 cleaning staff. Input into the local community through wages paid to staff is in the vicinity of \$9,000,000.

Social Inclusion and Participation

Although ISS has its head office in Port Macquarie, NSW, the company employs local people from in and around Lismore and sources consumables from local suppliers, therefore having a positive impact on local businesses and the community.

Protect, Conserve and Enhance the Environment and Biodiversity

Both the NSW Department of Commerce and ISS have a strong demonstrated commitment to sustainability and the conservation of the environment; these requirements are also embedded in the contract specifications and in their daily business practices.

Best-Practice Corporate Governance

Councils in NSW are required to invite tenders before entering into certain contracts under Section 55 of the *Local Government Act*, 1993. However, councils can utilise supply arrangements procured by the NSW State Government without the need to go to tender in their own right. The recommended approach is in accordance with the requirements of the *Local Government Act* and will not require significant staff time to be devoted to the necessary processes for Council to conduct its own tender.

Comments

Finance

The tender process conducted by the NSW Department of Commerce is likely to achieve the best value for Council. The contract also has enough flexibility to allow modifications to the level of service to be undertaken to ensure that the total cost is within the approved budget. Based on these points, the recommendation is supported.

Other staff comments

Not required.

Public consultation

Not applicable.

Conclusion

Council's cleaning contract has expired and requires renewal. It is currently operating on a month to month basis until such time as Council awards a new contract. An opportunity exists for Council to participate in the NSW State Government Cleaning Contract through the Department of Commerce. Should Council choose to participate, the administrative costs of calling, assessing and awarding tenders would be avoided. Council would also receive the benefits of ongoing administrative processes implemented by the Department of Commerce in supervising the contract. It is considered that Council would be very unlikely to achieve a better price for the services by conducting its own tender process.

ISS Facilities Services is the regional supplier for the NSW State Government Cleaning Contract for the North Coast. It has successfully supplied cleaning services to Lismore City Council for the past ten years. In that time it has provided excellent service and good value for money.

For a company to be accepted and listed on a NSW State Government Contract, they need to be a high calibre supplier with all relevant processes and procedures in place. Although ISS has its head office in Port Macquarie NSW, the company employs local people from in and around Lismore and sources consumables from local suppliers, benefiting local business and the community.

It is recommended that Council participate in the NSW State Government Cleaning Contract.

Attachment/s

There are no attachments for this report.

Recommendation

That:

1. Council decline to call open tenders for the provision of cleaning services for Council facilities.
2. In accordance with Section 55(3) of the *Local Government Act, 1993* Council procure its cleaning services through the NSW State Government Contract administered by the Department of Commerce in accordance with the terms and conditions of that contract.
3. The General Manager be authorised to finalise and execute the relevant documentation required to enter into a contract with ISS Facilities Services.
4. The common seal of Council be applied to any necessary contract documentation as required.

Report

Subject	2011 Local Government Association of NSW
TRIM Record No	BP11/370:EF09/112
Prepared by	Corporate Compliance Coordinator
Reason	Need to determine representation to secure bookings
Community Strategic Plan Link	Best-Practice Corporate Governance

Overview of Report

The 2011 Local Government Association of NSW Conference will be hosted by Shoalhaven Council. Council is entitled to send three voting delegates as well as observers. The number of attendees needs to be identified to secure accommodation.

Background

The 2011 Local Government Association of NSW Conference will be hosted by the Shoalhaven City Council from the 23 to 26 October 2011. At this stage no details of the conference venue or program have been released but it is expected to be in Nowra and follow a similar format to previous years.

Last year's Conference was held in Albury and for the first time in many years Council was not represented. Council is entitled to send three voting delegates to the conference and a number of observers as determined by Council. Council has a policy that one of the Delegates be the Mayor, with Councillors determining the other two delegates and the General Manager also attending as an Observer.

Accommodation at such Conferences is always difficult to obtain and the earlier we can make the booking the better. So whilst this notification of the Conference is earlier than normal, the intent is to determine the attendees so that accommodation can be secured. The Association also requires that Delegates be appointed by Council resolution.

Requests for Motions to the conference have not been called at this stage and such advice will be conveyed to Councillors when it is received with any Motions requiring the support of Council via a report and resolution.

Sustainability Assessment

Best-Practice Corporate Governance

The attendance at such conferences has been seen as a means where elected Councillors have the opportunity to influence the Association's approach to key issues and expand their knowledge of local government issues. Attendance is not mandatory and there is a cost in Council being represented.

Comments

Finance

All costs associated with attending the 2011 Local Government Association Conference are funded from the Councillor Professional Development budget. Attendance at this conference will not fully expend this budget.

Public consultation

No consultation has been undertaken

Attachment/s

There are no attachments for this report.

Recommendation

That:

1. Council's voting delegates to the 2011 Local Government Association NSW Conference be the Mayor, Councillor.....and Councillor.....
2. Council's Observers to the Conference be the General Manager and Councillors.....

Report

Subject	Investments - May 2011
TRIM Record No	BP11/78:EF09/586
Prepared by	Management Accountant
Reason	Required by Local Government Act 1993, Local Government (General) Regulation 2005 and Council's Investment Policy
Community Strategic Plan Link	Best-Practice Corporate Governance

Overview of Report

Investments as at 31 May 2011 are estimated to be \$39,922,730 subject to final market valuations typically provided after month end.

The interest rate reported for May 2011 is estimated to be 5.50% which is above the Bank Bill Swap Rate for the period of 4.99%. The final interest return may vary due to actual returns achieved on investments advised after month end.

Background

The Local Government Act 1993 (Section 625), Local Government (General) Regulations 2005 (Regulation 212) and Council's Investment Policy requires a monthly report be provided to Council on investments. The report is to include the source and amount of funds invested, investment portfolio performance for the period and a statement of compliance in relation to the requirements of the Local Government Act 1993.

Report on Investments

- | | |
|--|--------------|
| • <i>Confirmation of Investments – at Market Value – 30 April 2011</i> | \$38,164,730 |
| • <i>Estimated Investments – at Market Value – 31 May 2011</i> | \$39,922,730 |

The current rate of return on investments for April 2011 is estimated to be 5.50% which is above the Bank Bill Swap Rate for the period of 4.99%. The rate of return reported has been calculated using actual returns where available and estimates based on the previous period balance and interest rates. The methodology used to calculate estimates appears reasonable in light of discussion with the portfolio advisor.

There are a number of investments not paying coupons. These include investments in Blackrock Care & Maintenance Fund, Longreach – Series 25, Corsair (Torquay) and five other Lehman Brothers related investments that are terminating. These investments are shown on the 'Estimated Interest' attachment with an estimated interest rate and weighted interest for the period of zero.

In regards to the Blackrock Care & Maintenance Fund, as this fund is being independently managed with a view to its ultimate termination, the payment of a coupon is dependent on funds being available net of costs. A coupon payment has not been recognised as a return on investment this month.

The balance in the CBA Business On Line Account is currently higher than would normally be anticipated. This is mainly due to rates payments being received leading up to the time of this report. Once future cashflows have been considered, some of these funds will be transferred to term deposits.

The estimated interest earned for the financial year to May 2011 remains favourable compared to the pro rata Budget. While this variance is expected to narrow as funds held for capital works are expended, a favourable variance is anticipated for 2010/11.

Sustainability Assessment

Sustainable Economic Growth and Development

Council's main objective in investing funds is to preserve the capital, i.e. prevent any loss to the amount invested, while gaining the most advantageous rate of return with minimum risk.

Best-Practice Corporate Governance

The Local Government Act 1993, Local Government (General) Regulation 2005 and Council's Investment Policy require Council's investments to be reported monthly.

Comments

Finance

Relevant comments have been included in the report and the recommendation supported.

Conclusion

A report on investments is required to be submitted to Council monthly. This report meets that requirement. As at 31 May 2011 investments total \$39,922,730 and the annualised rate of return was 5.50%.

The investments held by Council with various financial institutions, have been made in accordance with the Local Government Act 1993, Local Government (General) Regulation 2005 and Council's Investment Policy.

Attachment/s

1. Capital Value Movement including name of institution, lodgement date and maturity date
2. Estimated Interest showing interest rate and estimated interest earned for the year
3. Total Investment Portfolio held by month with last comparison - graphical
4. Weighted Average Interest Rate with bank bill swap rate and last year comparison - graphical
5. Investment by Type - Graphical
6. Investment by Institution as a percentage of total portfolio - graphical

Recommendation

That the report be received and noted.

**Capital Value Movements
Summary of Investments held as at
31 May 2011**

Name of Investment / & Counterparty	Type of Investment	Rating	Assessment of return of Capital	Purchase Date	Maturity Date	Last Date Confirmed Valuation Available	Balance Sheet Valuation (Note 1)	Current Market Value (Note 4)	
Cash Based Returns									
Blackrock Care & Maintenance Fund	Managed Fund	Not Rated (Note 7)	High	15/10/2008	N/A	21/04/2011	\$ 1,799,597	\$ 2,066,329	Note 3
CBA Business On Line Banking A/C	Cash Management Account	Cash	High	N/A	N/A	31/05/2011	\$ 6,267,500	\$ 6,267,500	
Macquarie Cash Management Trust	Cash Management Account	Cash	High	1/9/2006	N/A	31/05/2011	\$ 263,727	\$ 263,727	
UBS Cash Management Trust	Cash Management Account	Cash	High	N/A	N/A	30/04/2011	\$ 122,224	\$ 122,224	
Westpac Banking Corporation	Term Deposit	AA	High	7/12/2010	7/6/2011	7/12/2010	\$ 2,000,000	\$ 2,000,000	
Newcastle Permanent	Term Deposit	A-2	High	15/2/2011	15/6/2011	15/02/2011	\$ 1,000,000	\$ 1,000,000	
Bank of Cypress	Term Deposit	Not Rated (Note 7)	High	15/2/2011	15/6/2011	15/02/2011	\$ 1,000,000	\$ 1,000,000	
Savings & Loans Credit Union	Term Deposit	Not Rated (Note 7)	High	15/2/2011	15/6/2011	15/02/2011	\$ 2,000,000	\$ 2,000,000	
Savings & Loans Credit Union	Term Deposit	Not Rated (Note 7)	High	20/12/2010	20/6/2010	20/12/2010	\$ 1,000,000	\$ 1,000,000	
Credit Union Australia (CUA)	Term Deposit	A-2	High	11/1/2011	11/7/2011	11/01/2011	\$ 1,000,000	\$ 1,000,000	
Southern Cross Credit Union	Term Deposit	Not Rated (Note 7)	High	13/10/2010	13/7/2011	13/10/2010	\$ 2,000,000	\$ 2,000,000	
IMB Banking & Financial Services	Term Deposit	A-2	High	18/1/2011	19/7/2011	18/01/2011	\$ 1,000,000	\$ 1,000,000	
Bank of Queensland	Term Deposit	A-2	High	19/1/2011	19/7/2011	19/01/2011	\$ 1,000,000	\$ 1,000,000	
Police & Nurses Credit Union	Term Deposit	Not Rated (Note 7)	High	31/1/2011	1/8/2011	31/01/2011	\$ 1,000,000	\$ 1,000,000	
Southern Cross Credit Union	Term Deposit	Not Rated (Note 7)	High	31/1/2011	1/8/2011	31/01/2011	\$ 1,000,000	\$ 1,000,000	
IMB Banking & Financial Services	Term Deposit	A-2	High	2/2/2011	2/8/2011	2/02/2011	\$ 2,000,000	\$ 2,000,000	
Bank of Queensland	Term Deposit	A-2	High	7/12/2010	8/8/2011	7/12/2010	\$ 2,000,000	\$ 2,000,000	
Suncorp Bank	Term Deposit	A-1	High	15/2/2011	15/8/2011	15/02/2011	\$ 2,000,000	\$ 2,000,000	
Credit Union Australia (CUA)	Term Deposit	A-2	High	7/3/2011	5/9/2011	7/03/2011	\$ 2,000,000	\$ 2,000,000	
Deutsche Bank CG Yield Curve Note	Euro Bond	A+	High	1/9/2006	18/10/2011	30/06/2010	\$ 247,500	\$ 247,500	Note 5
National Australia Bank	Term Deposit	A1+	High	7/12/2010	7/12/2011	7/12/2010	\$ 2,000,000	\$ 2,000,000	
Summerland Credit Union	Term Deposit	A-2	High	17/1/2011	17/1/2012	17/01/2011	\$ 1,000,000	\$ 1,000,000	
Magnolia (Flinders)	Floating Rate CDO	BB-	Low	1/9/2006	20/3/2012	30/06/2010	\$ 255,000	\$ 255,000	Note 5
ING Bank Australia Limited	Term Deposit	A1+	High	5/4/2011	4/4/2012	5/04/2011	\$ 2,000,000	\$ 2,000,000	
RaboDirect (Rabobank Australia Ltd)	Term Deposit	A1+	High	12/4/2011	12/4/2012	12/04/2011	\$ 1,000,000	\$ 1,000,000	
Omega (Henley)	Floating Rate CDO	CCC	Low	1/9/2006	22/6/2012	30/06/2010	\$ 280,000	\$ 280,000	Note 5
Commonwealth Bank of Australia	Term Deposit	A1+	High	30/11/2009	29/11/2012	30/11/2009	\$ 400,000	\$ 400,000	
Beryl (Esperance 2)	Floating Rate CDO	Early Termination	Low	1/9/2006	20/3/2013	30/06/2010	\$ -	\$ -	Note 5
Corsair (Torquay)	Floating Rate CDO	CCC-	Low	1/9/2006	20/6/2013	30/06/2010	\$ 20,000	\$ 20,000	Note 5
Zircon (Merimulla)	Floating Rate Note	Early Termination	Low	1/9/2006	20/6/2013	30/06/2010	\$ -	\$ -	Note 5
Corsair (Kakadu)	Floating Rate CDO	CCC-	Low	1/9/2006	20/3/2014	30/06/2010	\$ 125,000	\$ 125,000	Note 5
Longreach - Series 25	Equity Linked Investment	A+	High	2/4/2007	4/4/2014	30/06/2010	\$ 759,450	\$ 759,450	Note 2

**Capital Value Movements
Summary of Investments held as at
31 May 2011**

Name of Investment / & Counterparty	Type of Investment	Rating	Assessment of return of Capital	Purchase Date	Maturity Date	Last Date Confirmed Valuation Available	Balance Sheet Valuation (Note 1)	Current Market Value (Note 4)	
Investec bank (Australia)	Term Deposit	A2	High	12/5/2011	12/5/2014	12/05/2011	\$ 1,000,000	\$ 1,000,000	
Helium (Scarborough)	Floating Rate CDO	CCC-	Low	1/9/2006	23/6/2014	30/06/2010	\$ 16,000	\$ 16,000	Note 5
Beryl (Global Bank Note)	Floating Rate Note	Early Termination	Low	1/9/2006	20/9/2014	30/06/2010	\$ -	\$ -	Note 5
Zircon (Coolangatta)	Floating Rate CDO	Early Termination	Low	1/9/2006	20/9/2014	30/06/2010	\$ -	\$ -	Note 5
Aphex (Glenselg)	Floating Rate CDO	CCC-	Low	1/9/2006	22/12/2014	30/06/2010	\$ 100,000	\$ 100,000	Note 5
Zircon (Miami)	Floating Rate CDO	Early Termination	Low	1/9/2006	20/3/2017	30/06/2010	\$ -	\$ -	Note 5
Investment on Hand							\$ 39,655,999	\$ 39,922,730	

Investments Redeemed during period (Note 6)

Community CPS Australia Ltd	Term Deposit	Not Rated (Note 7)	High	4/3/2011	3/5/2011	4/03/2011	\$ 2,000,000	\$ 2,000,000
Defence Force Credit Union	Term Deposit	Not Rated (Note 7)	High	7/12/2010	10/5/2011	7/12/2010	\$ 2,000,000	\$ 2,000,000

\$ 43,655,999	\$ 43,922,730
----------------------	----------------------

- Note 1: Balance Sheet Valuation is the value reported in Council's Financial Report as at 30 June 2010 or the purchase price for investments purchased post 30/06/10
 Note 2: Capital Guaranteed note if held to maturity
 Note 3: The Balance Sheet Valuation is the Market Value as at 30/6/10 less redemptions during the year.
 Note 4: Latest estimates based on information provided by investment managers and prior period performance.
 Note 5: Market Value is the Capital Value of the Investment and any accrual of income.
 Note 6: These investments were redeemed during the period and impact on the interest return for the period. They are not part of the Balance of Investments Held.
 Note 7: These Counterparties & Products are authorised under the Minister's Investment Order and require no minimum credit rating.

"Indicative" Source of Funds

Externally Restricted	30,552,866
Internally Restricted	9,369,865
	<u>\$ 39,922,730</u>

**Estimated Interest
Summary of Investments held as at
31 May 2011**

Name of Investment / & Counterparty	Type of Investment	Rating	Annualised Coupon / Interest Rate	Current market Value (Note 6)	Estimated Interest for Period	Weighted Interest for Period
Cash Based Returns						
Blackrock Care & Maintenance Fund	Managed Fund	Not Rated	0.00%	\$ 2,066,329	\$ -	0.00%
CBA Business On Line Banking A/C	Cash Management Account	Cash	4.10%	\$ 6,267,500	\$ 21,825	0.64%
Macquarie Cash Management Trust	Cash Management Account	Cash	4.75%	\$ 263,727	\$ 1,064	0.03%
UBS Cash Management Trust	Cash Management Account	Cash	3.82%	\$ 122,224	\$ 397	0.01%
Westpac Banking Corporation	Term Deposit	AA	6.14%	\$ 2,000,000	\$ 10,430	0.30%
Newcastle Permanent	Term Deposit	A-2	5.88%	\$ 1,000,000	\$ 4,994	0.15%
Bank of Cypress	Term Deposit	Not Rated	6.15%	\$ 1,000,000	\$ 5,223	0.15%
Savings & Loans Credit Union	Term Deposit	Not Rated	6.03%	\$ 2,000,000	\$ 10,243	0.30%
Savings & Loans Credit Union	Term Deposit	Not Rated	6.26%	\$ 1,000,000	\$ 5,317	0.15%
Credit Union Australia (CUA)	Term Deposit	A-2	6.20%	\$ 1,000,000	\$ 5,266	0.15%
Southern Cross Credit Union	Term Deposit	Not Rated	6.10%	\$ 2,000,000	\$ 10,362	0.30%
IMB Banking & Financial Services	Term Deposit	A-2	6.24%	\$ 1,000,000	\$ 5,300	0.15%
Bank of Queensland	Term Deposit	A-2	6.45%	\$ 1,000,000	\$ 5,478	0.16%
Police & Nurses Credit Union	Term Deposit	Not Rated	6.25%	\$ 1,000,000	\$ 5,308	0.15%
Southern Cross Credit Union	Term Deposit	Not Rated	6.40%	\$ 1,000,000	\$ 5,436	0.16%
IMB Banking & Financial Services	Term Deposit	A-2	6.20%	\$ 2,000,000	\$ 10,532	0.31%
Bank of Queensland	Term Deposit	A-2	6.45%	\$ 2,000,000	\$ 10,956	0.32%
Suncorp Bank	Term Deposit	A-1	6.28%	\$ 2,000,000	\$ 10,667	0.31%
Credit Union Australia (CUA)	Term Deposit	A-2	6.29%	\$ 2,000,000	\$ 10,684	0.31%
Deutsche Bank CG Yield Curve Note	Euro Bond	A+	6.99%	\$ 247,500	\$ 1,484	0.04%
National Australia Bank	Term Deposit	A1+	6.60%	\$ 2,000,000	\$ 11,211	0.33%
Summerland Credit Union	Term Deposit	A-2	6.35%	\$ 1,000,000	\$ 5,393	0.16%
Magnolia (Flinders)	Floating Rate CDO	BB-	6.24%	\$ 255,000	\$ 1,590	0.04%
ING Bank Australia Limited	Term Deposit	A1+	6.31%	\$ 2,000,000	\$ 10,718	0.31%
RaboDirect (Rabobank Australia Ltd)	Term Deposit	A1+	6.60%	\$ 1,000,000	\$ 5,605	0.16%
Omega (Henley)	Floating Rate CDO	CCC	5.63%	\$ 280,000	\$ 1,913	0.04%
Commonwealth Bank of Australia	Term Deposit	A1+	7.00%	\$ 400,000	\$ 2,378	0.07%
Beryl (Esperance 2)	Floating Rate CDO	Early Termination	0.00%	\$ -	\$ -	0.00%
Corsair (Torquay)	Floating Rate CDO	CCC-	0.00%	\$ 20,000	\$ -	0.00%

Note 1,3

**Estimated Interest
Summary of Investments held as at
31 May 2011**

Name of Investment / & Counterparty	Type of Investment	Rating	Annualised Coupon / Interest Rate	Current market Value (Note 6)	Estimated Interest for Period	Weighted Interest for Period
Zircon (Merimbula)	Floating Rate Note	Early Termination	0.00%	\$ -	\$ -	0.00%
Corsair (Kakadu)	Floating Rate CDO	CCC-	6.14%	\$ 125,000	\$ 2,607	0.02%
Longreach - Series 25	Equity Linked Investment	A+	0.00%	\$ 759,450	\$ -	0.00%
Investec bank (Australia)	Term Deposit	A2	7.49%	\$ 1,000,000	\$ 4,309	0.13%
Helium (Scarborough)	Floating Rate CDO	CCC-	6.63%	\$ 16,000	\$ 1,126	0.00%
Beryl (Global Bank Note)	Floating Rate Note	Early Termination	0.00%	\$ -	\$ -	0.00%
Zircon (Coolangatta)	Floating Rate CDO	Early Termination	0.00%	\$ -	\$ -	0.00%
Aphex (Glenelg)	Floating Rate CDO	CCC-	6.53%	\$ 100,000	\$ 2,773	0.02%
Zircon (Miami)	Floating Rate CDO	Early Termination	0.00%	\$ -	\$ -	0.00%
Investment on Hand				\$ 39,922,730	\$ 190,589	5.37%

Note 2,5

Note 4

Investments Redeemed during period

Community CPS Australia Ltd	Term Deposit	Not Rated	6.00%	\$ 2,000,000	\$ 986	0.03%
Defence Force Credit Union	Term Deposit	Not Rated	6.26%	\$ 2,000,000	\$ 3,430	0.10%

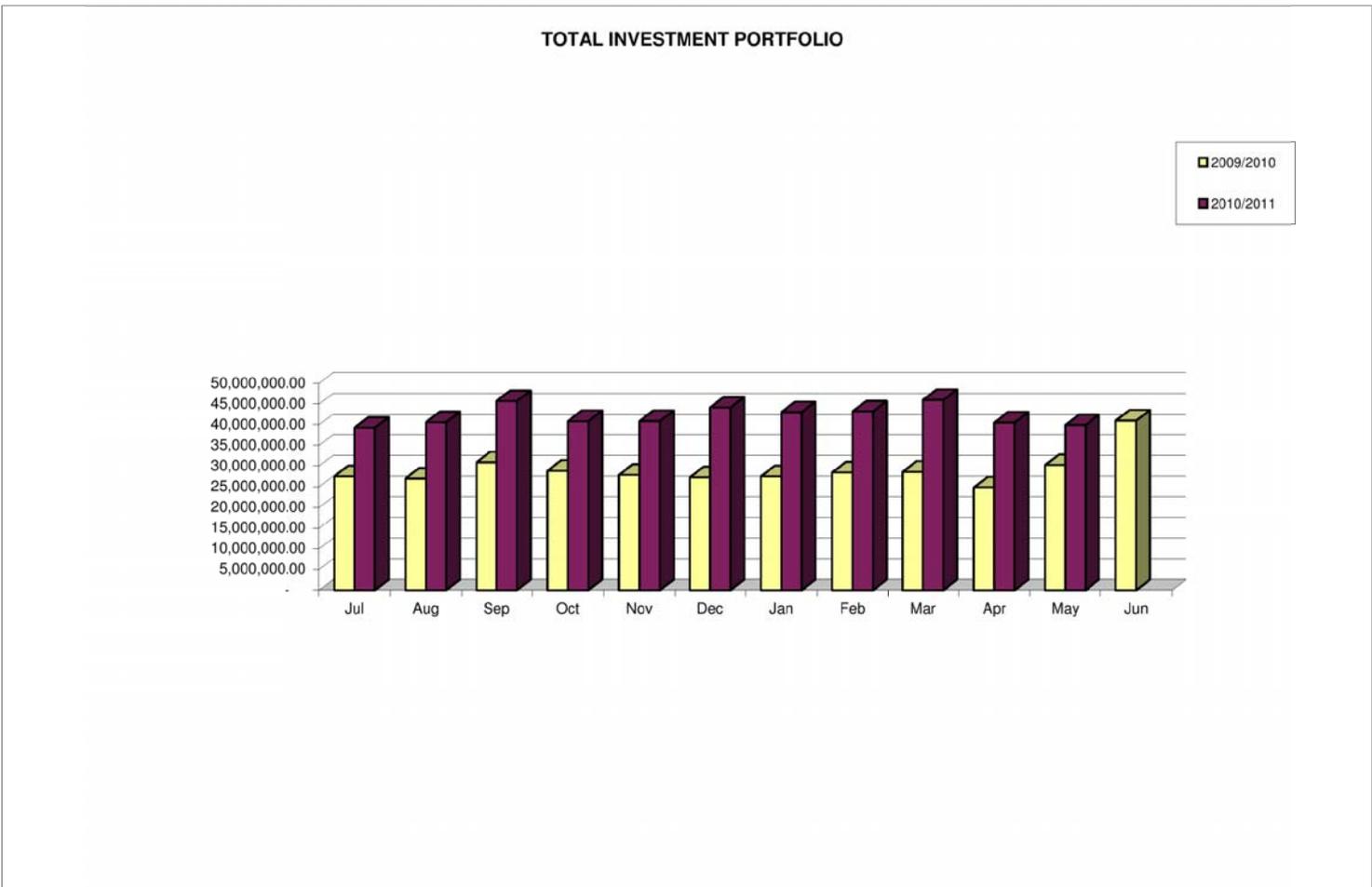
31/5/2011	
\$ 43,922,730	\$ 195,005

5.50%

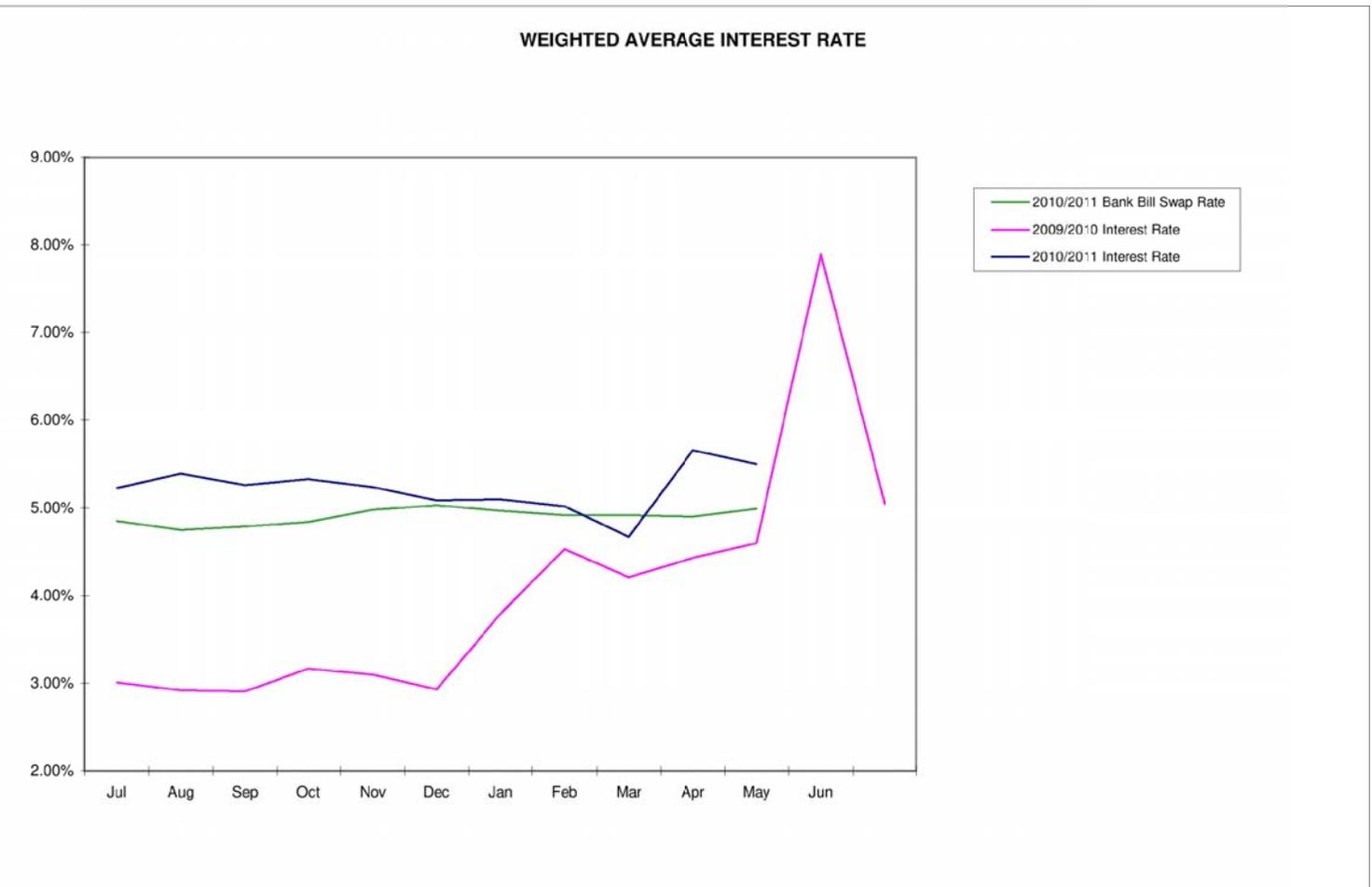
Investment Income Earned vs. Budget Year to Date

Estimated interest earned to date	\$ 2,192,596
Pro Rata annual budget	\$ 1,972,758

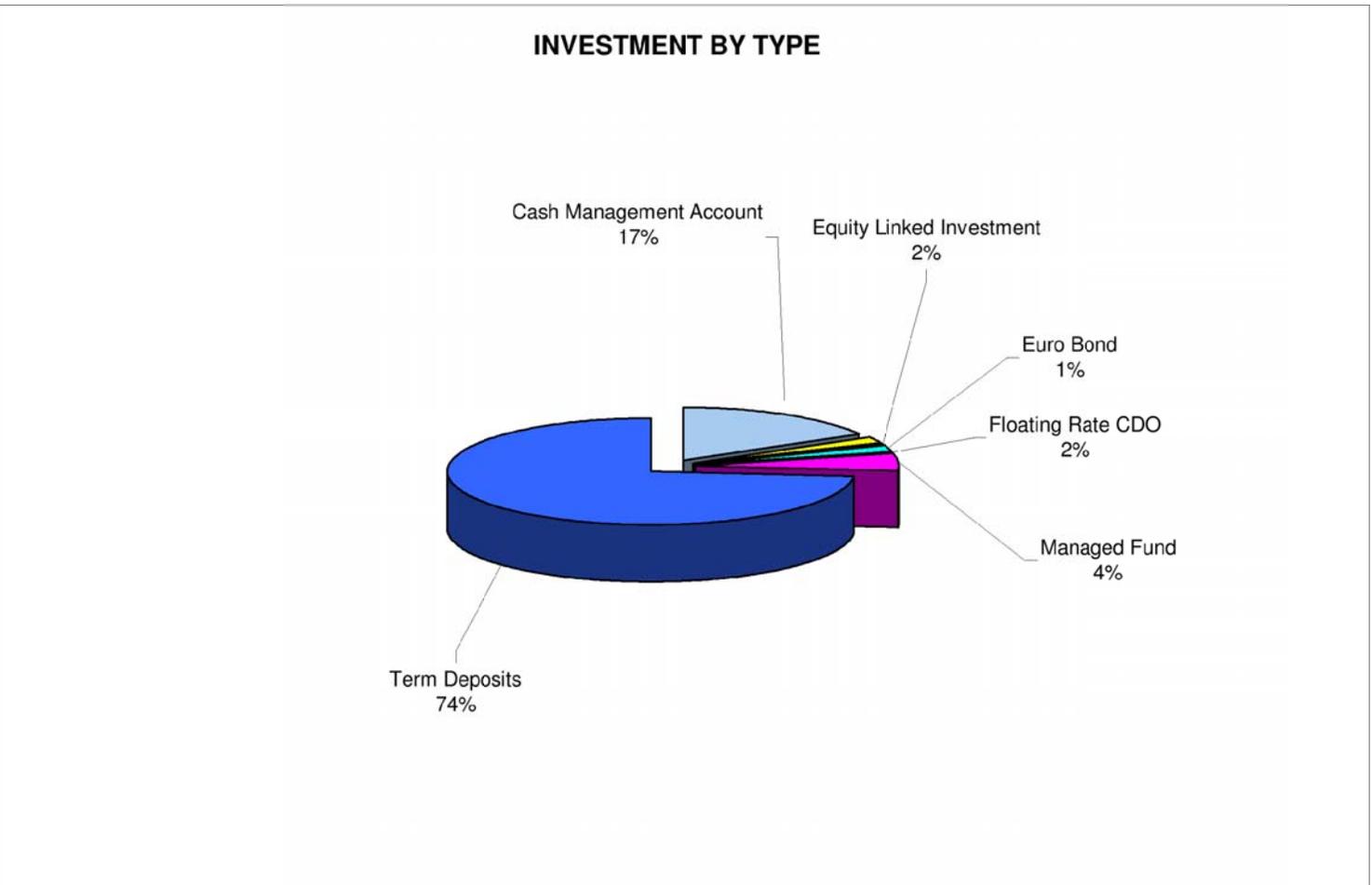
- Note 1: Interest return is calculated on (actual interest + accrued interest + realised gains - losses on disposal - expenses) / principal value
- Note 2: Capital Guaranteed note if held to maturity
- Note 3: Blackrock Care & Maintenance Fund interest rate is shown as zero as regular distributions are not being received. When a distribution is received the interest rate is adjusted for that month accordingly.
- Note 4: Estimated Interest for Period is calculated by multiplying the annualised rate by the purchase price and reflects both interest accrued and received.
- Note 5: No coupon currently payable under terms of the investment.
- Note 6: Latest estimates based on information provided by investment managers and prior period performance.

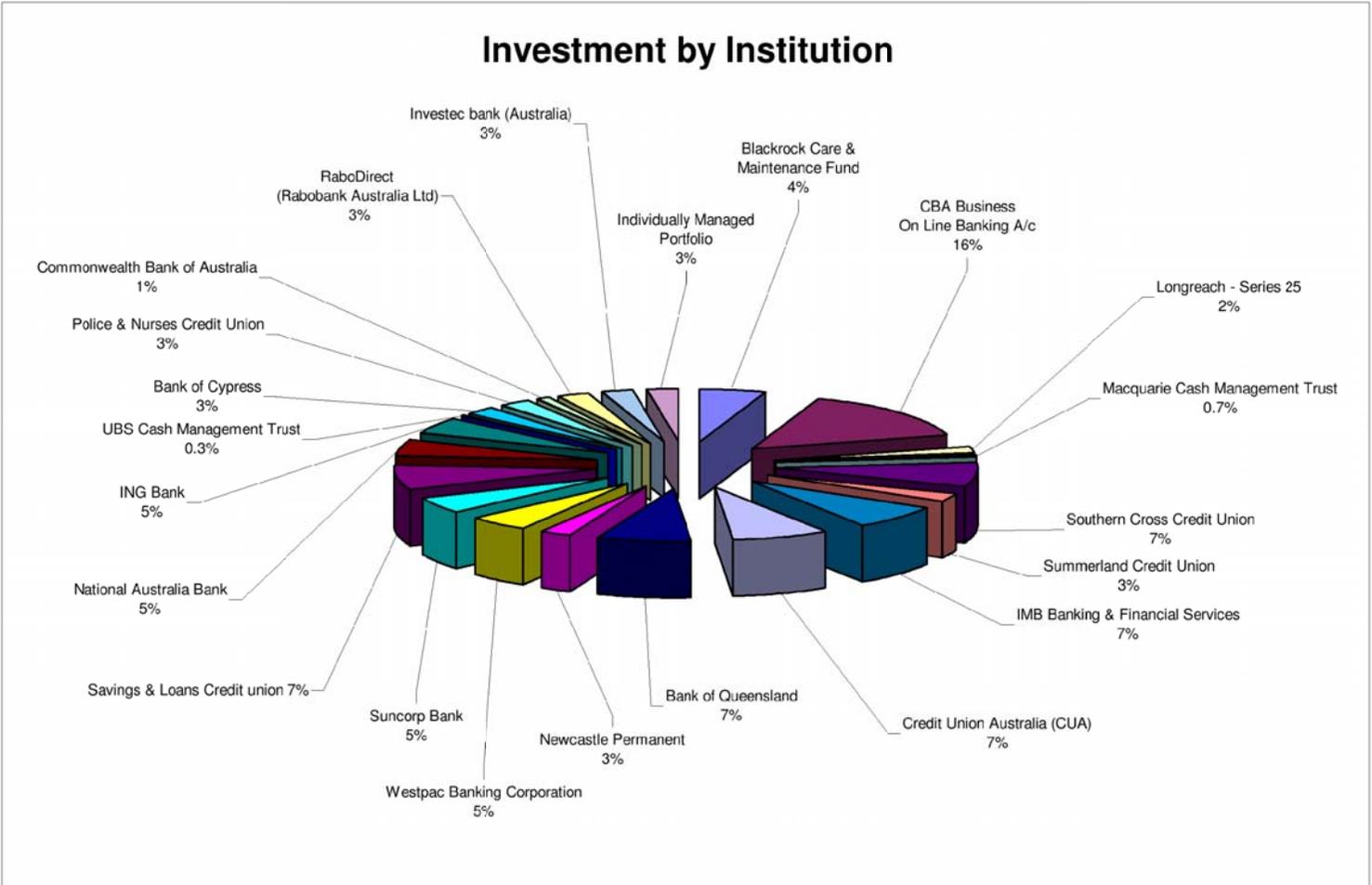


2010-11 Investment Report for council.xls



2010-11 Investment Report for council.xls





Committee Recommendations



Committee Recommendation

Traffic Advisory Committee Minutes

Attachment/s

1. Traffic Advisory Committee Minutes 18 May 2011

Recommendation

That the minutes be received and adopted and the recommendations contained therein be adopted.

MINUTES OF THE TRAFFIC ADVISORY COMMITTEE MEETING HELD IN THE CBD CENTRE, 55 MAGELLAN STREET, LISMORE ON WEDNESDAY, 18 MAY 2011 AT 10.00AM.

Present

Councillor Jenny Dowell (*Chairperson*), Frank Smallman (*RTA*), Snr Const Rob Clarke (*Lismore Police*) and Bronwyn Mitchell (*on behalf of Thomas George MP*).

In Attendance

Garry Hemsworth (*Executive Director-Infrastructure Services*) and Bill MacDonald (*Traffic & Emergency Services Co-ordinator*).

Apologies

TAC42/11 Apologies for non-attendance on behalf Thomas George, MP (*Member for Lismore*) and Lisa Marshall (*Road Safety Officer*) were received and accepted.

Confirmation of Minutes

TAC43/11 The Committee was advised that the minutes of the Traffic Advisory Committee meeting held on 20 April 2011 were confirmed by Council on 10 May 2011.

Disclosure of Interest

NIL

Part 'A' – Committee Recommendations

Lismore's Festival of Fitness - Truck Pull

An application and traffic management plan have been received to hold Australia's Strongman Truck Pull event on 16 July 2011. CI11/10108:EF10/129

Athletes attempt to pull a 22 tonne vehicle over a controlled course of 25 metres in Keen Street. The event organiser has advised that this year the program has been extended to include an additional three (3) events. Consequently it is proposed that Keen Street be closed for approximately three (3) hours, commencing at 10.00 am.

This event has been well supported by both businesses and the community previously and as in past years the organisers will be delivering individual letters to nearby businesses to advise of the impending event and associated road closure.

The Traffic Management Plan is the same as that implemented last year with no previous problems being identified, however concerns were raised regarding the length of the proposed closure and this may need to be reviewed next year depending on the level of support from the community.

TAC44/11 **Recommended** that approval for the proposed event be granted in accordance with the traffic management plan as submitted.

Development Application 2011/146 - Adaptive Re-Use of Former St Mary's Convent to Office

Council has received a development application for the adaptive re-use of the former St Mary's Presentation Convent to office space for the Catholic Schools Office for the Diocese of Lismore and a new separate carpark located at 3 Dawson Street and 8, 12 and 16 Brunswick Street, Lismore. (DA11/146)

The proposal includes a number of measures that will alleviate any negative impact the development might have on traffic flows. These include:

1. The provision of signage at the intersection of Dawson and Brunswick Streets to better define the right-turn movement out of the one-way section of Brunswick Street;
2. an extension of the existing footpath to service the new off-street carpark off Brunswick Street;
3. the development of a Construction Management Plan;
4. provision of entrance and exit signage at the new Dawson Street accesses to clearly indicate the direction of circulation, and
5. the provision of signage at the new carpark off Brunswick Street clearly restricting the use of the carpark within commercial hours of operation, to vehicles associated with the development.

These measures are supported.

TAC45/11 Recommended that the above measures be implemented as proposed by the developers. In addition:

1. The existing road hump closest to Dawson Street be replaced with a concrete flat top speed hump that will better define the pedestrian flow path and provide a flat all-weather crossing point across the one-way section of Brunswick Street;
2. the relocation of the existing accessible parking space on the western side of Dawson Street to a point immediately south of the existing driveway below the convent, and
3. the introduction of a No Stopping zone on the western side of Dawson Street, between the underpass structure, including the new deliveries driveway entrance, down to the new location of the accessible parking space to prohibit parking in this area and provide maximum available sight distance for vehicles exiting the new delivery driveway loop.

Proposed Reconstruction of Conway Street, between Dawson Street and Ballina Road

Council's Design Services Engineer has requested that the proposed plans for the reconstruction of Conway Street be submitted to the Committee for comment. (RP11/2)

There are a number of options currently under consideration however, several proposals raise concerns in terms of traffic safety. Angle parking in the middle of Conway Street in the vicinity of Ongmac is not supported. Apart from the fact that there is minimal gain in the number of available on-street parking spaces due to the requirement that existing parking on the southern side of Conway Street revert back to parallel parking, the faster moving flows mean the potential for conflict between through traffic and those negotiating a centre park is heightened.

Proposed Reconstruction of Conway Street, between Dawson Street and Ballina Road (Cont'd)

Consideration is also being given to the retention of 45° angle parking or reverting to parallel parking on the northern side of Conway Street in the vicinity of Barbeques Galore and Steve's Cake Shop.

Parallel parking in front of Barbeques Galore without additional works is supported due to conflict that is created when two lanes leaving the Dawson Street roundabout are merging into one. There is insufficient space for motorists wishing to park to pull off and reverse into angle parking without bringing through traffic in the merge lane to a halt.

An alternative plan was tabled at the meeting showing a proposal to increase the available shoulder width in front of Barbeques Galore and thereby increasing manoeuvring room for motorists to reverse into angle parking, however this has proven to be impractical due to the location of a water main.

The plan also showed the inclusion of 15-minute parking in this area from Dawson Street up to the driveway to the Nursery at 74 Conway Street. The Committee did not support the inclusion of 15-minute parking on the southern side of Conway Street in the vicinity of Aldi nor the introduction of 'No Stopping' in Forbes Lane.

TAC46/11 Recommended:

1. that 45° angle parking on both sides of Conway Street be retained in lieu of centre parking in the vicinity of Ongmac;
2. parallel parking be introduced on the northern side of Conway Street east of the Dawson Street roundabout and in front of Barbeques Galore in lieu of 45° angle parking, and
3. that 15-minute parking be introduced on the northern side of Conway Street from Dawson Street up to the driveway to the Nursery at 74 Conway Street provided this is supported by adjoining businesses.

Part 'B' – Determined by Committee

Rosebank Public School - Request for Flashing Lights

A local resident of Rosebank, Stephen Nicholls, has drawn attention to speeding vehicles through the School Zone for Rosebank Public School and requested that flashing light speed indicators and more obvious road markings be installed on both sides of the school. (CI11/10390:EF09/2047)

School Zone signage on the approaches to Rosebank Public School is standard and visible. However, as with many other schools which do not have flashing lights, driver inattention often means that the signs are not noticed or more easily ignored.

The School Zone patch on the northern side of the school is not as easily seen due to significant roadside growth and would benefit from being repainted.

Police have been advised of the writer's concerns relating to excessive speeds past the school and have commenced patrols in that area.

Rosebank Public School - Request for Flashing Lights (Cont'd)

The installation of flashing lights at all schools is supported however, their roll out is very slow with Council recently being advised by the Roads & Traffic Authority that only Caniaba Public School has been identified as funded for the installation of flashing lights within the current financial year.

Council has already identified several other schools located on high volume roads as priorities in terms of flashing lights installation and Rosebank Public School can be added to the list. However, bearing in mind that funding is very limited it may be some years under current funding commitments before the installation is realised.

In the short term arrangements have been made to have a classifier installed near the driveway to 325 Rosebank Road to determine the extent of any problem. The results will be passed on to Police.

- TAC47/11** **It was agreed** that the writer be advised of the current status of the flashing light roll out and that Rosebank Public School will be added to the list and in the short term Police have commenced patrols. Further that the School Zone patch on the northern side will be repainted in the next program and a classifier installed to ascertain the extent of any problem with the results being passed on to Police.

Intersection of Ballina Road / Pineapple Road / Toongahra Estate - Pedestrian Safety

A resident of Toongahra Estate, Mrs Frances Dowling, has expressed concern for the pedestrian safety hazard that exists for school children crossing Ballina Road, Goonellabah, near Pineapple Road and Toongahra Circuit. (C111/10874:R6408-16)

It was noted at the last meeting that the Roads & Traffic Authority is currently carrying out a speed zone investigation to determine the appropriate speed limit on the Bruxner Highway which includes the area in question.

Due to the number of lanes and opposing traffic movements and the fact that warrants would not be met, the Authority would not agree to the installation of a marked pedestrian crossing. Pedestrian movements are serviced by an existing pedestrian refuge which has good sight distance of oncoming traffic from both directions.

Investigations have revealed that there were 11 students who used the refuge in the morning and only one in the afternoon. Delays for motorists exiting from Pineapple Road or Oliver Avenue onto Ballina Road were minimal. In addition there were only three recorded accidents in the last five years along the section of Ballina Road between Pineapple Road and Richmond Hill Road with only one of these at the Pineapple Road intersection.

Longer term it is likely that this intersection will be upgraded however, the timing may be dictated by further development on Pineapple Road or within the Toongahra Estate or the Roads & Traffic Authority's decision to upgrade the Bruxner Highway between Goonellabah and Wollongbar.

Intersection of Ballina Road / Pineapple Road / Toongahra Estate - Pedestrian Safety (Cont'd)

- TAC48/11** **It was agreed** that the writer be advised of the longer term likelihood that the intersections of Ballina Road with Pineapple Road and Toongahra Circuit will be upgraded and that the Roads & Traffic Authority is currently carrying out investigations into the potential for reducing the speed limit along this section of the Bruxner Highway. **Further** that a letter be written to the Roads & Traffic Authority requesting that it proceed with the upgrade of the Bruxner Highway including major intersections, at the earliest opportunity.

Development Application 2011/148 - Change of Use of Dwelling at 501 Ballina Road, Goonellabah, to Medical Centre

Council has received a development application for the change of use of a building from a dwelling to a medical centre (dental practice) located at 501 Ballina Road, Goonellabah. (DA11/148)

The property is located on the southern side of Ballina Road, approximately 100m west of Invercauld Road.

It should be noted that it is likely a centre median will be constructed along Ballina Road in the future and the developers have proposed left-turn movements into and out of the property to address these future requirements. These movements need to be clearly defined as part of any works, possibly by the installation of a raised centre triangular median in the centre of the driveway if room permits.

The driveway will be widened and shall include a small splay on the eastern side to increase ease of access off Ballina Road. Eleven (11) off-street car parks are provided onsite including one accessible parking bay.

TAC49/11 **It was agreed** that the Committee support the measures proposed as part of the development as outlined above. In addition, there should be clear signage erected near the front property boundary advising clients of the availability of parking at the rear of the property.

Proposal for a Protected Right Turn Bay on Ballina Road at William Blair Avenue

The Roads & Traffic Authority has prepared a preliminary plan showing a proposal for a protected right turn bay on Ballina Road at William Blair Avenue (western end). (R6408)

The ongoing concerns of increasing accident history at this intersection has resulted in investigations being commenced by the Roads & Traffic Authority into appropriate treatments to resolve the current situation.

The proposal tabled showed the need for significant works to provide a protected right turn bay which included major alterations to driveways, the relocation of power poles and other services and the removal of an existing bus bay and parking in front of residences.

Proposal for a Protected Right Turn Bay on Ballina Road at William Blair Avenue (Cont'd)

Although a detailed design and costing was yet to be completed the Committee felt that the current proposal only dealt with one isolated location and it may be more appropriate to investigate treatments that would address all intersections along the Bruxner Highway between High Street and Rous Road. This may include the installation of a roundabout or traffic lights at Invercauld Road. This whole section of the Highway has been of concern for many years and any short term proposal may not necessarily fit in with an overall longer term proposal.

TAC50/11 **It was agreed** that the Roads & Traffic Authority be advised that although Council appreciated the commencement of investigations and proposed treatment at the western intersection of William Blair Avenue, it was considered a more practical and longer term solution would be to investigate treatments that would address the whole section of the Bruxner Highway between High Street and Rous Road.

Recently Introduced 60kph Speed Limit on Dunoon Road, Modanville

Councillor Yarnall and Others have forwarded a petition requesting that consideration be given to revert the recently introduced 60kph speed limit on Dunoon Road Modanville back to 80kph. (C111/11139:R3407)

It was noted that the speed limit had already been reviewed however, the Committee had been advised by the Roads & Traffic Authority that a Ministerial request had been received regarding this issue and Councillor Yarnall's submission and the petition would be forwarded for further consideration as well.

Mr Smallman undertook to advise the results of any further review in the near future.

TAC51/11 **It was agreed** that the results of any further review be referred back to the Committee once completed.

Recently Completed Bridge Street Upgrade

Councillor Yarnall has raised concerns on behalf of a member of the community regarding several aspects of the recently completed Bridge Street upgrade. (RP10/18)

Concerns had been raised regarding the relocation of the existing marked pedestrian crossing further south and that it poses a safety risk for pedestrians when motorists are propped to reverse into the 45° angle parking in that it blocks the view of the crossing for motorists following.

The pedestrian crossing includes the construction of concrete kerb blisters that extend beyond the line of parked vehicles as well as a centre refuge. The facility is clearly marked and signposted in accordance with the relevant standards.

A query had also been submitted regarding the need to introduce parallel parking on the western side of Bridge Street north of the pedestrian crossing in lieu of the previous 45° angle parking. Due to the number of driveways in this area and the setback required for angle parking there would be no gain in 45° angle parking.

Recently Completed Bridge Street Upgrade (Cont'd)

Apart from this, parallel parking provides increased sight lines of the approaching intersection and the significant number of vehicle movements associated with the service station on the corner of Bridge and Terania Streets.

TAC52/11 **It was agreed** that facilities introduced as part of the recent upgrade of Bridge Street remain as installed.

Broadwater Road from Kilgin Road intersection to Bank Street

Donella Kinnish has requested consideration of reducing the speed limit on the section of Broadwater Road from Kilgin Road intersection to Bank Street due to the narrow width of the road and lack of centre line marking. (R5802)

A survey was carried out in 2009 which had determined that there was not a significant problem with excessive speeds related to heavy vehicles. It was noted that all road users were required to travel in accordance with prevailing road conditions and the lack of line marking did not mean a reduction in speed limit was required.

Notwithstanding that above, it was suggested that a further survey be carried out to determine the extent of any change in the intervening period.

TAC53/11 It was agreed that a further survey be carried out to determine the extent of any speeding problems on Broadwater Road with the results being referred back to the Committee for further consideration.

Closure

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

Documents for Signing and Sealing



Document for Signing and Sealing

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

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

Recommendation

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

Sale to Reo Investments – 2 Industry Drive, East Lismore (P5144)

Linen plan of subdivision and associated documents and Transfer of Title for the sale of a small strip of Council land (approximately 400 m²) to the adjoining land owner (Reo Investments Pty. Ltd.) A report to Council meeting of 14 December 2010 passed a resolution (279/10) to proceed with the sale and execution under Common Seal of the Contract for Sale. However, the resolution did not refer to execution of any other documents necessary for completion of the transaction.

NSW Rural Fire Service Zoning Agreement

Agreement has been reached between the NSW Rural Fire Service and Lismore, Richmond Valley and Kyogle Councils regarding a zoning arrangement for the Northern Rivers region. Council agreed in principle to the zoning arrangement at its meeting of 23 July 2010 and delegated authority to the General Manager to finalise the agreement. The document is now ready for execution under Seal.

Financial Assistance - Section 356



Financial Assistance – Section 356

a) Representative Selection – Policy 1.4.10 (GL390.735.15)

Budget: \$1,100

Spent to date: \$375

Mr Matt Tickle is seeking financial assistance to attend the Commonwealth Karate Games in July 2011 in Sydney as the men's open heavyweight karate champion (C111/11094).

\$375

In accordance with policy.

b) City Hall Reductions in Rental – Policy 8.4.2 (GL390.125.15)

Budget: \$21,400

Spent to date: \$20,382

Lismore Symphony Orchestra requesting Council discount the hire fees (\$844) by 60% for the use of the City Hall for a rehearsal and concerts on 2, 4 and 5 June 2011.

Recommendation: In accordance with Clause 5 of the policy, a donation 20% of the hire fees applies.

\$168.80

Project Seres requesting Council waive or discount the hire fees (\$386) for use of the City Hall on 16 June 2011 to hold a benefit function to raise funds to work with at risk rural communities in Guatemala.

Recommendation: In accordance with Clause 5 of the policy, a donation 20% of the hire fees applies.

\$77.20

Bahai's of Lismore requesting Council discount the hire fees (\$129) for use of the City Hall on 3 April 2011 to hold a quarterly Cluster meeting that brings together the majority of Baha'i believers within the Northern Rivers to reflect on past activities and plan for the social and economic development activities.

Recommendation: In accordance with Clause 5 of the policy, a donation 25% of the hire fees applies.

\$32.25

Lismore Community College requesting Council discount the hire fees (\$98 per hire) for the occasional use of the City Hall kitchen to hold kitchen classes in 2011.

Recommendation: In accordance with Clause 5 of the policy, a donation 20% of the hire fees applies each hire.

\$19.60

Financial Assistance – Section 356

AM Marketing on behalf of the Northern Rivers Careers Expo 2011 requesting Council discount the hire fees (\$1,260) for use of the City Hall on 4 May 2011 to hold the Northern Rivers Careers Expo 2011.

Recommendation: In accordance with Clause 5 of the policy, a donation 20% of the hire fees applies.

\$252.00

Northern Rivers Community Legal Centre requesting Council discount the hire fees (\$227) for use of the City Hall on 4 June 2011 to hold a 'Rights at Work' seminar for the African communities in Lismore.

Recommendation: In accordance with Clause 5 of the policy, a donation 25% of the hire fees applies.

\$56.75

In accordance with policy.

c) Mayor's Discretionary Fund (GL390.485.15)

Budget: \$2,700

Spent to date: \$2,300

Eltham Arts Awards 2011 to be held on 28 October 2011 are seeking financial assistance in the form of sponsorship (ED11/20241).

\$100

Recommendation

In accordance with Section 356(1) of the Local Government Act 1993, the assistance to persons as listed above is hereby approved.

MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE CITY OF LISMORE HELD IN COUNCIL CHAMBERS ON TUESDAY, 10 MAY 2011 AT 6.00PM.

Present

Mayor, Councillor Dowell; Councillors Houston, Battista, Meineke, Clough, Chant, Graham, Yarnall, Ekins, Marks, and Smith, together with the General Manager, Executive Director-Sustainable Development, Executive Director-Infrastructure Services, Manager-Finance, Manager-Development and Compliance, Manager-Integrated Planning, Manager-Information Services, Manager-Arts, Tourism and Leisure, Catchment Management Officer, Strategic Engineer Water and Sewer, Media and Community Relations Officer, Corporate Compliance Coordinator and General Manager's Personal Assistant.

Confirmation of Minutes

364/11 **RESOLVED** that the minutes of the Lismore City Council held on 12 April 2011 be confirmed.

(Councillors Clough/Chant)

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Battista, Dowell, Graham, Yarnall, Ekins and Smith

Voting against: Nil

365/11 **RESOLVED** that the minutes of the Lismore City Council Extra Ordinary Meeting held on 3 May 2011 be confirmed.

(Councillors Marks/Smith)

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Battista, Dowell, Graham, Yarnall, Ekins and Smith

Voting against: Nil

Disclosure of Interest

Councillor Battista declared a pecuniary conflict of interest in the following item:

Report – March 2011 Quarterly Capital Works Program Update for Roads and Water Infrastructure

Nature of Interest: I own an investment property on new Ballina Road. I will leave the Chamber and not participate in the debate or the voting.

Councillor Chant declared a non-significant conflict of interest in the following item:

Report – Quarry Financial Review

Nature of Interest: I am an owner of a business which buys products from the quarry. I will leave the Chamber and not participate in the debate or the voting.

Public Access Session

Prior to dealing with the circulated reports and associated information, a Public Access Session was held at which Council was addressed by the following:

Robert Bou-Hamdan - S96 Amendment to Development Application No. 5.2010.176.2 - NightOwl, 81 Woodlark Street, Lismore

Mr Bou-Hamdan advised he fully supported the concept of 24 hour trading in the CBD. He sought final approval for the time extension rather than a trial period and deletion of condition 11A. He raised issues in respect to street cleaning, after hour trading policy and cameras in the laneways.

Nick Woodham - S96 Amendment to Development Application No. 5.2010.176.2 - NightOwl, 81 Woodlark Street, Lismore

Mr Woodham outlined the business model by the Night Owl Franchise. He stressed the community support for the business to expand the opening hours and the safety build into the shop staff and customers.

Condolence

Condolence - Mary Harris (Cr Jenny Dowell) - ef10/363

Hazel Mary Harris was an amazing woman who spent 44 years of her life in Lismore and made a considerable contribution to our community.

Mary, as she was known, was born in Walcha on 20 March 1923. She graduated from UNE Armidale with a Bachelor of Science and worked in Melbourne as a research scientist before returning to Armidale, where she taught in schools. She married husband Bert, a local vet, in 1953 and had three children Peter, Donald and Dianne before returning to teaching in 1964.

Two years later, the family moved to Lismore where Bert began work with the Department of Agriculture. Mary began 16 years of science teaching at St Mary's.

Retirement meant Mary could concentrate on her community interests- and there were many. She was a Guides Regional Commissioner, a member of Quota, VIEW and Lifeline and a reader for the Royal Blind Society among other interests.

Mary stood for election to Council in 1995 alongside John Crowther- I'm told she missed out on being elected by two votes.

As early as 1992, Mary was passionate to see a Rainforest Botanic Gardens in our region. She was on the original steering committee in 2002 and she and Bert travelled, wrote grant applications, attended conferences and searched for a site.

After Council agreed that the Waste facility was a good place for the gardens and a plan was developed to establish a gardens, the first plantings occurred in 2002. In that year, Mary was awarded the LCC Australia Day Environment Award for her work at the Gardens.

Cr Ekins and I were Councillors on the Civic Pride committee in 2004 on which Mary sat as the delegate from the Botanic Gardens. Mary chaired the Management Committee with participation from other members and Council staff until she retired due to ill health in 2007.

Mary's husband Bert died in October last year. The LRBG played a big part in both their lives and Mary in particular was a regular attendee at the monthly work mornings.

Mary died on 21 April 2011 in Grafton where she lived near her daughter Dianne. At Mary's funeral, her family asked that, in lieu of flowers, donations are made to the Gardens. Consequently, you will note a donation from the Mayor's Discretionary Fund in Mary's name. At its last work day on 1 May, a Dorrigo Wattle was planted in her memory, beside her favourite Lilly Pilly.

Mary is survived by her three children and five grandchildren.

I ask all present to stand and honour Mary Harris with a moments silence and I move that Council sends its condolences to Mary's daughter Dianne Rose and the extended family.

366/11

RESOLVED that Council's expression of sympathy be conveyed to the family of Ms Harris and the MOTION was APPROVED with members standing and observing the customary moments silence.

(Councillors Dowell/Yarnall)

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Battista, Dowell, Graham, Yarnall, Ekins and Smith

Voting against: Nil

Mayoral Minutes

S.1 Acting General Manager - Lismore City Council

367/11 **RESOLVED** that Council appoints Rino Santin as Acting General Manager for the period 1 July 2011 until the new General Manager, Mr Gary Murphy takes up his appointment.

(Councillors Dowell/Graham) (BP11/321)

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Battista, Dowell, Graham, Yarnall, Ekins and Smith

Voting against: Nil

Notice of Rescission Motions

9.1 Internal Audit

368/11 **RESOLVED** that Resolution Number 350/11 in respect to the Internal Audit processes be rescinded.

(Councillors Yarnall/Marks) (BP11/305)

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Battista, Dowell, Graham, Yarnall and Ekins

Voting against: Councillor Smith

Notice of Motions

10.1 Internal Audit

369/11 **RESOLVED** that:

1. Council establish a more formal internal audit process by incorporation into the General Manager's Annual Performance Plan.
2. An amount of \$50,000 be included in the draft 2011/12 Operational Plan to fund internal audit processes.

(Councillors Yarnall/Marks) (BP11/306)

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Battista, Dowell, Graham, Yarnall and Ekins

Voting against: Councillor Smith

10.2 Funding for Roads

370/11

RESOLVED that:

1. Council prepare a report on the methods by which council address the funding shortfall of:
 - a) \$940,000pa on rural sealed roads; and
 - b) Approx \$1,000,000pa on unsealed roads.
2. The report on the above methods be included in the 2011/12 Operational Plan (Budget).

(Councillors Yarnall/Clough) (BP11/300)

Voting for: Councillors Houston, Meineke, Chant, Marks, Graham, Yarnall and Ekins

Voting against: Councillors Clough, Battista, Dowell and Smith

Reports

12.1 S96 Amendment to Development Application No. 5.2010.176.2 - NightOwl, 81 Woodlark Street, Lismore

371/11

RESOLVED that:

1. Council resolve to modify its consent dated 13 July 2010 in respect to a proposal for a Convenience Store (NightOwl) at 81 Woodlark Street, Lismore under the provisions of Section 96 of the Environmental Planning and Assessment Act only in so far as will provide for the following.

To delete condition 2 of the consent and insert in lieu there of the following new condition namely:

Hours of Operation

2. The hours of operation are regulated as follows:
 - (a) The hours of operation of the premises shall be restricted to 5am to 12 midnight from Sunday to Friday.
 - (b) Notwithstanding (a) above, the premises may operate on a 24 hour basis on Friday and Saturday nights for a **trial period** of twenty four (24) months from the date that consent is granted.
 - (c) If the proprietor wishes to extend trading hours beyond the above restrictions on nominated NSW public holiday days during the trial period, application may be made in writing to Council for written approval of 24 hour trading to be approved on a one-off basis for nominated days not exceeding 5 days in any 12 month period.

A further application may be lodged before the expiration of the twenty four (24) month **trial period** for Council's consideration of the continuation of the above extended hours of operation, or any further extension. Such consideration will be based upon, inter alia, the performance of the operator in relation to compliance with development consent conditions, any complaints received and any views expressed by the Police.

The proprietor is to maintain an incident register for the duration of the trial period referred to above which shall be available for review by any officer authorised under the Environmental Planning & Assessment Act 1979.

Reason: *To preserve the environment and existing or likely future amenity of the neighbourhood.*

To add a new condition 11A namely:

- 11A. The proprietor is to ensure that at all times when the premises are open and at the end of each day after the premises have closed, all rubbish including loose papers, cigarette butts, bottles etc which may be left on the subject area or immediately adjacent (within 50m of the premises) is picked up and placed in the proprietor's rubbish bins.

Reason: *To ensure waste generated by the approved use or activity is properly managed by the person acting upon this consent, to prevent unsightly build up of waste material.*

(Councillors Meineke/Graham) (BP11/222)

Section 375A Voting Record

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Battista, Dowell, Graham, Yarnall, Ekins and Smith

Voting against: Nil

12.2 North Woodburn Wastewater Scheme

372/11

RESOLVED that:

1. Council delegate authority to the General Manager to negotiate and make minor amendments as required to finalise the draft construction agreement between Lismore City Council and Richmond Valley Council prior to its execution.
2. Upon finalisation, Council execute under seal the agreement between Lismore City Council and Richmond Valley Council.
3. Council endorse the proposed demarcation of responsibilities for future maintenance of the North Woodburn Wastewater Scheme as outlined in the section of the report titled *Proposed Demarcation of Responsibilities for Construction and Maintenance of Works on Private Property*.

4. Council endorse the methodology to be applied when calculating future charges for users of the North Woodburn Wastewater Scheme (listed in the section of this report titled *Proposed Charges* and Attachment 4) with the recommended charges to be reported as part of future annual Operational Plans.

(Councillors Smith/Marks) (BP11/121)

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Battista, Dowell, Graham, Yarnall, Ekins and Smith

Voting against: Nil

12.3 Integrated Waste and Resource Recovery Strategy

- 373/11 **RESOLVED** that Council endorse the public exhibition of the Draft Integrated Waste and Resource Recovery Strategy for a period of twenty eight days and report back to Council for final adoption.

(Councillors Graham/Marks) (BP11/282)

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Battista, Dowell, Graham, Yarnall, Ekins and Smith

Voting against: Nil

12.4 Richmond River Estuary Study and Coastal Zone Management Plan

A MOTION WAS MOVED that:

1. Council note the content of the Richmond River Estuary Summary Document as attached in particular Table 2 ('Overview of the Coastal Zone Management Plan implementation schedule').
2. Council lodge a formal submission to the draft Estuary Management Study and Coastal Zone Management Plan to the Richmond River County Council expressing support for the draft documents subject to the following changes namely:
 - a) References to the Estuary Management Committee in attached Table 2 ('Overview of the Coastal Zone Management Plan implementation schedule') be replaced by inserting the words the 'Coastal Zone Management Plan Implementation Committee (to be formed)' for the reasons outlined in the report.
 - b) The Richmond River County Council, Northern Rivers Catchment Management Authority and constituent Councils be responsible for the formation of the newly to be established Coastal Zone Management Plan Implementation Committee as outlined in 2.1.

3. Council include a project entitled 'Implementation of the Coastal Zone Management Plan for the Richmond River Estuary' into the 2010-2014 Delivery Plan to acknowledge contributions already made by Council to estuary management
4. Prior to considering the inclusion of future funding commitments for this project into the 2010-2014 Delivery Plan, Richmond River County Council be requested to develop a detailed financial plan that shows the timing and funding amount required to implement the CZMP that is acceptable to Council.
5. Council spend no new money above the \$10,000 recommended in the draft 2011/12 budget on the Richmond River Estuary Study and Coastal Zone Management Plan until a financial plan is reported to Council.

(Councillors Graham/Marks) (BP11/239)

AN AMENDMENT WAS MOVED that:

1. Council note the content of the Richmond River Estuary Summary Document as attached in particular Table 2 ('Overview of the Coastal Zone Management Plan implementation schedule').
2. Council Lodge a formal submission to the draft Estuary Management Study and Coastal Zone Management Plan to the Richmond River County Council expressing support for the draft documents subject to the following changes namely:
 - a) References to the Estuary Management Committee in attached Table 2 ('Overview of the Coastal Zone Management Plan implementation schedule') be replaced by inserting the words the 'Coastal Zone Management Plan Implementation Committee (to be formed)' for the reasons outlined in the report.
 - b) The Richmond River County Council, Northern Rivers Catchment Management Authority and constituent Councils be responsible for the formation of the newly to be established Coastal Zone Management Plan Implementation Committee as outlined in 2.1.
3. Council include a project entitled 'Implementation of the Coastal Zone Management Plan for the Richmond River Estuary' into the 2010-2014 Delivery Plan to acknowledge contributions already made by Council to estuary management
4. Prior to considering the inclusion of future funding commitments for this project into the 2010-2014 Delivery Plan, Richmond River County Council be requested to develop a detailed financial plan that shows the timing and funding amount required to implement the CZMP that is acceptable to Council.

(Councillors Smith/Yarnall) (BP11/239)

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

(Councillors Smith/Yarnall) (BP11/239)

Voting for: Councillors Houston, Clough, Chant, Dowell, Yarnall, Ekins and Smith

Voting against: Councillors Meineke, Marks, Battista and Graham

374/11

RESOLVED that:

1. Council note the content of the Richmond River Estuary Summary Document as attached in particular Table 2 ('Overview of the Coastal Zone Management Plan implementation schedule').
2. Council Lodge a formal submission to the draft Estuary Management Study and Coastal Zone Management Plan to the Richmond River County Council expressing support for the draft documents subject to the following changes namely:
 - a) References to the Estuary Management Committee in attached Table 2 ('Overview of the Coastal Zone Management Plan implementation schedule') be replaced by inserting the words the 'Coastal Zone Management Plan Implementation Committee (to be formed)' for the reasons outlined in the report.
 - b) The Richmond River County Council, Northern Rivers Catchment Management Authority and constituent Councils be responsible for the formation of the newly to be established Coastal Zone Management Plan Implementation Committee as outlined in 2.1.
3. Council include a project entitled 'Implementation of the Coastal Zone Management Plan for the Richmond River Estuary' into the 2010-2014 Delivery Plan to acknowledge contributions already made by Council to estuary management
4. Prior to considering the inclusion of future funding commitments for this project into the 2010-2014 Delivery Plan, Richmond River County Council be requested to develop a detailed financial plan that shows the timing and funding amount required to implement the CZMP that is acceptable to Council.

(Councillors Smith/Yarnall) (BP11/239)

Voting for: Councillors Houston, Clough, Chant, Marks, Battista, Dowell, Yarnall, Ekins and Smith

Voting against: Councillors Meineke and Graham

12.5 Telecommunications Contract

375/11 **RESOLVED** that Council procure its telecommunication services using an existing approved Contract based on best possible value for money.

(Councillors Marks/Yarnall) (BP11/218)

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Battista, Dowell, Graham, Yarnall, Ekins and Smith

Voting against: Nil

12.6 March 2011 Quarterly Budget Review Statement

376/11 **RESOLVED** that:

1. Council adopt the March 2011 Quarterly Budget Review Statement for General, Water and Wastewater Funds.
2. Council recognise an accumulated deficit of (\$140,800) as at 31 March 2011.
3. Council apply the net cash from the sale of the Koala Child Care Centre to funding the 2010/11 Budget.
4. This report be forwarded to Council's Auditor for information.

(Councillors Smith/Clough) (BP11/236)

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Dowell, Graham, Yarnall and Smith

Voting against: Councillors Battista and Ekins

12.7 Sale of Koala Child Care Centre

377/11 **RESOLVED** that:

1. Council accept the revised offer of from Ms Lisa Martin to purchase the Koala Child Care Centre and business.
2. The General Manager be authorised to finalise negotiations and enter a contract for sale of the facility subject to completion of a satisfactory financial background check of the successful party.
3. The contract for sale is executed under seal of Council.

4. In the event that the financial background check is not satisfactory or any other aspect of the negotiations cannot be resolved, the General Manager be authorised to conduct negotiations with the other respondents to the process in the following priority order based on prices submitted:

- (1) Jennifer Cornell;
- (2) Jennifer Morrin;
- (3) Rhian Mannix and Leesa Maher.

(Councillors Graham/Marks) (BP11/287)

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Battista, Dowell, Graham, Yarnall and Smith

Voting against: Councillor Ekins

12.8 Plant Replacement Program

378/11

RESOLVED that:

1. Council accept the following tendered offers:
 - a) Semco Equipment for a Dynapac CA362D smooth drum roller with GVM of 14,200kg at a total cost of \$163,909.00 plus GST.
 - b) Semco Equipment for a Dynapac CCS142 three point roller with GVM of 13,200kg at a total cost of \$156,058.18 plus GST.
 - c) Northern Rivers Isuzu for an Isuzu FVZ1400 cab chassis (Hook Truck) with GVM of 22,500kg at a total cost of \$151,891.71 plus GST.
 - d) Northern Rivers Isuzu for an Isuzu NQR450 Long truck fitted with an eight cubic metre Superior Pak rear load waste compactor with GVM of 22,500kg at a total cost of \$190,407.90 plus GST.
 - e) Northern Rivers Isuzu for a Isuzu FXY1500 Tandem Tipper Truck with GVM of 22,500kg at a total cost of \$167,174.88 plus GST.
2. Council sell via auction:
 - a) Plant No. 349, a 14 tonne smooth drum roller
 - b) Plant No. 319, a three point roller
 - c) Plant No. 174; a Volvo FL6 cab/ chassis truck
 - d) Plant No. 176; a Volvo FL7 rear load garbage truck
 - e) Plant Nos. 123, 143, 14 and 15; two Nissan UD Truck and Dog combination tip trucks.

(Councillors Chant/Smith) (BP11/235)

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Battista, Dowell, Graham, Yarnall, Ekins and Smith

Voting against: Nil

12.9 Tender No. T2011-16 - Caniaba Road Widening and Rehabilitation

379/11

RESOLVED that:

1. Council accept the tender and award the contract for Tender T2011-16 Caniaba Road widening and rehabilitation to Morgans and accept the Schedule of Rates provided in its submission.
2. The General Manager finalise details and proceed to execute a contract under seal of Council.
3. The Executive Director-Infrastructure Services determine an appropriate site for replacement of these koala trees in the Caniaba area

(Councillors Smith/Graham) (BP11/286)

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Battista, Dowell, Graham, Yarnall, Ekins and Smith

Voting against: Nil

At this juncture Councillor Battista left the meeting.

12.10 March 2011 Quarterly Capital Works Program Update for Roads and Water Infrastructure

380/11

RESOLVED that the March quarter Capital Works progress report be received and noted.

(Councillors Graham/Marks) (BP11/233)

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Dowell, Graham, Yarnall, Ekins and Smith

Voting against: Nil

At this juncture Councillor Battista returned to the meeting.

12.11 Northern Rivers Local Water Utilities - Memorandum of Understanding

381/11

RESOLVED that:

1. Council endorse and support the principles of the Northern Rivers Local Water Utilities Memorandum of Understanding.
2. The General Manager provide a quarterly 'memo' to Councillors sourced from the Director's Group quarterly report.

(Councillors Meineke/Smith) (BP11/309)

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Battista, Dowell, Graham, Yarnall, Ekins and Smith

Voting against: Nil

12.12 Goods and Services Tax - Council Compliance

382/11

RESOLVED that Council submit a Goods and Services Tax Certificate for the period 1 May 2010 to 30 April 2011 signed by the Mayor and Deputy Mayor to the NSW Division of Local Government

(Councillors Clough/Smith) (BP11/223)

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Battista, Dowell, Graham, Yarnall, Ekins and Smith

Voting against: Nil

12.13 Investments - April 2011

383/11

RESOLVED that the report be received and noted.

(Councillors Smith/Meineke) (BP11/77)

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Battista, Dowell, Graham, Yarnall, Ekins and Smith

Voting against: Nil

Committee Recommendations

13.1 Traffic Advisory Committee Minutes 20 April 2011

384/11 **RESOLVED** that the minutes be received and adopted and the recommendations contained therein be adopted.

(Councillors Houston/Clough) (BP11/308)

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Battista, Dowell, Graham, Yarnall, Ekins and Smith

Voting against: Nil

Financial Assistance – Section 356

S.1 Financial Assistance – Section 356 Report

385/11 **RESOLVED** that in accordance with Section 356(1) of the Local Government Act 1993, the assistance to persons as listed above is hereby approved.
(Councillors Graham/Smith) (BP11/317)

Representative Selection – Policy 1.4.10 (GL390.735.15)

Budget: \$1,100 Spent to date: \$0

Sam Kennedy has been selected to represent the Australian Universities Rugby League Team that will be playing a series of matches against a visiting England Students team in Bali, Brisbane and Cairns. He will be required to travel from 21 June to 14 July 2011. As this is a self-funded tour, to participate, each player must pay the amount of \$4,950. Any donation from Lismore City Council to assist the abovementioned player in reducing his cost would be greatly appreciated (C111/10442).

\$375

In accordance with policy.

City Hall Reductions in Rental – Policy 8.4.2 (GL390.125.15)

Budget: \$21,400 Spent to date: \$20,382

Local Congregations of Jehovah's Witnesses is requesting Council discount the hire fees (\$2,086) for use of the City Hall to listen to the presentations of bible lectures on 9 and 10 April 2011.

Recommendation: In accordance with Clause 5 of the policy, a donation 25% of the hire fees applies.

\$521.50

Local Congregations of Jehovah's Witnesses is requesting Council discount the hire fees (\$1,043) for use of the City Hall to listen to the presentations of bible lectures on 20 November 2011.

Recommendation: In accordance with Clause 5 of the policy, a donation 25% of the hire fees applies.

\$260.75

In accordance with policy.

Council Contributions to Charitable Organisations

Waste Facility – Policy 5.6.1 (GL390.965.15)

Budget: \$15,000 Spent to date:\$13,226.91

April 2011

Animal Right & Rescue \$36.37

Multitask \$290.90

Five Loaves \$290.90

Friends of the Koala \$45.45

LifeLine \$68.53

Westpac Life Saver Helicopter \$80.01

Total \$812.16

In accordance with policy.

Mayor's Discretionary Fund (GL390.485.15)

Budget: \$2,700 Spent to date:\$1,450

Ms **Mary Harris'** family is requesting a donation to the Friends of the Lismore Rainforest Botanic Gardens in memory of Ms Harris.

\$50

The **Far North Coast Country Women's Association** is seeking a donation towards their annual education grants that assist disadvantaged local students (C111/10348).

\$400

A donation is sort for the **NAIDOC week 2011** Mayoral award for Youth (ED11/16640).

\$100

Friends of the Koala is seeking a seeking a donation to purchase wheelie bins to store leaf for koalas (ED11/17156).

\$200

At this juncture Councillor Chant left the meeting.

Confidential Matters – Closed Council Meeting

386/11 **RESOLVED** that Council now exclude the press and public and meet in Closed Council to consider the following matters;

Item 17.1 Quarry Financial Review

Grounds for Closure Section 10A(2) (d ii):

Public Interest Discussion of this matter in an open meeting would on balance be contrary to the public interest because it relates to commercial information of a confidential nature that would, if disclosed confer a commercial advantage on a competitor of the Council.

(Councillors Graham/Marks)

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Battista, Dowell, Graham, Yarnall, Ekins and Smith

Voting against: Nil

Resumption of Open Council

When the Council had resumed its former sitting, the General Manager reported that Council, meeting in Closed Council, had RECOMMENDED:

17.1 Quarry Financial Review

1. The Northern Rivers Quarry and Asphalt Strategic Financial Plan be adopted in principle as the foundation for strategic directions in the near to mid term future.
2. Budget items are included in the 2011/12 Operational Plan for repairs to the existing asphalt plant and for the preparation of a Development Application for a new plant.
3. A comprehensive business plan outlining the issues, capital alternatives and marketing strategies be submitted to Council before proceeding with purchase and operation of a new asphalt plant.

387/11 **RESOLVED** that the General Manager's report of Council meeting in Closed Council be received and adopted.

(Councillors Smith/Yarnall)

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Battista, Dowell, Graham, Yarnall, Ekins and Smith

Voting against: Nil

Closure

This concluded the business and the meeting terminated at 8.20pm.

CONFIRMED this FOURTEENTH DAY of JUNE 2011 at which meeting the signature herein was subscribed.

MAYOR