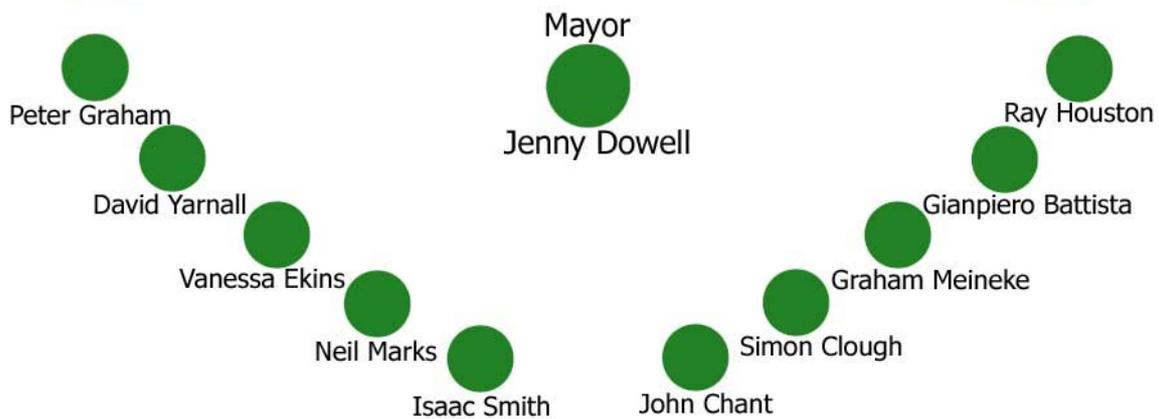


# Notice of Council Meeting



## Council

An ORDINARY MEETING of LISMORE CITY COUNCIL will be held at the COUNCIL CHAMBERS, 43 Oliver Avenue, Goonellabah on Tuesday, 8 March 2011 at 6.00pm.

Members of Council are requested to attend.

Paul G O'Sullivan

2 March 2011



# Agenda

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|  |     |
|--|-----|
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| Paul Recher - Lismore Tourist Caravan Park   |     |
| 6. Public Question Time  |     |
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16. Questions Without Notice

17. Confidential Business

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# 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.

# Mayoral Minutes

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# Mayoral Minute

**Subject**                      **Referendum on Constitutional Recognition**

**TRIM Record No**            BP11/103:EF10/363

That NOROC:

1. Declares its support for financial recognition of local government in the Australian Constitution so that the Federal Government has the power to fund local government directly;
2. Supports inclusion of local government in any new Preamble to the Constitution if one is proposed;
3. Calls on all political parties to support a referendum by 2013 to change the Constitution to achieve recognition of Local Government; and
4. Writes to the Prime Minister, Opposition Leader and Members for Page, Richmond and Cowper to advise them of NOROC's position.

## Background

The Australian Constitution makes no mention of the third sphere of government. Instead, Local Government (LG) is included in the jurisdiction of individual States.

Constitutional recognition is a long-held objective of LG's State and National Associations. After two past failed attempts there has been a renewal, in the past 4 years, of a commitment to achieve recognition.

In 2008, the Australian Local Government Association (ALGA) encouraged Councils to discuss Constitutional Recognition with their communities with the idea that a referendum might be possible by 2010.

Constitutional recognition could provide:

- Symbolic recognition – LG role in Federation
- Institutional recognition- relating to the existence and continuation of LG and recognising Councils as democratic representative bodies
- Financial recognition- allowing more direct financial connection between LG and the Commonwealth Government

Following a resolution of Lismore City Council in June 2008, voters at the September 13, 2008 Lismore City Council elections, were asked, 'Do you support the inclusion of Local Government in the Australian Constitution?'. Both the *Yes* and the *No* cases were briefly outlined. Voting for this poll was not compulsory and Council was not bound by the results. The voter participation in this poll was 24,572 representing 82.56% of the population of eligible voters.

The results were:

|          |        |       |
|----------|--------|-------|
| Yes      | 16,117 | (66%) |
| No       | 6,550  | (27%) |
| Informal | 1,905  | (7%)  |

The Yes vote of 66% was a convincing result indicating strong community support for Constitutional Recognition of LG.

In 2009 and 2010, LG conferences at State and National level committed considerable time to discussion of the timing and preparations required for a referendum. In the same year, the decision of the High Court in the *Pape vs Federal Commissioner of Taxation* case, highlighted the limitations of the Australian Government's powers and clearly indicated that there is no provision for direct funding of LG by the Commonwealth.

There are two possible means of seeking recognition:

1. A section 96 change that would allow direct funding of LG to continue
2. Inclusion of LG in the Preamble

Both require a referendum.

ALGA is suggesting that a section 96 change is preferable because it is a simpler and more pragmatic change. Inclusion in a new Preamble alone (if a new Preamble is proposed) would not address the issue of direct funding. The preferred approach has been endorsed by all state LG Associations. It is ALGA's intention to submit a Constitutional Declaration for Councils at the National General Assembly on June 22 2011.

The time appears right to propose a referendum in 2013. Support from all major parties is regarded as crucial for a Yes vote.

In the coming months, further material will be distributed to enable Councils to engage their communities on this important issue.

## **Conclusion**

To maximise the opportunity for a Yes result in a future referendum, NOROC needs to state its commitment and to inform Federal political leaders and our local Members of Parliament of that commitment.

**TRIM Record No:** BP11/103:EF10/363

# Notice of Motions

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## Notice of Motion

Cr Vanessa Ekins has given notice of intention to move:

That Council include committee reports in the monthly meeting Business Paper.

### **Staff Comment**

#### **General Manager**

Council's corporate structure recognises at least 17 committees to which this Notice of Motion applies. Council's current procedures require those Committees to record in minute form the business transacted at their meetings and that any matter which results in a recommendation for a determination by Council shall be formally reported as such. Individual Councillors have a monthly opportunity to present informational briefings to fellow Councillors on matters arising from Committees and Council supported groups in which they participate. Summaries and/or minutes of such meetings are distributed to Councillors as they arise. That approach serves the purpose of awareness and has been in place for the past decade at least and is a direct outcome of the last detailed review of Council's Committee system.

With the exception of reports required to be presented to Council by regulation, such as the monthly Investment report and the Traffic Committee report, the matters contained in the monthly meeting agenda are included because they require a determination by the Council. Councillors are no doubt aware that production of the business paper is already a difficult job with considerable time pressure exerted on a small group of staff members. Including committee reports would increase this pressure. In addition, addressing committee reports would also lengthen each Council meeting and provide an opportunity for a Councillor to introduce material and commentary to a Council meeting which is not documented. This is contrary to good meeting practice.

There is no governance purpose served by tabling minutes of meetings 'for information' at a Council meeting as proposed in the Notice of Motion and for that reason it is RECOMMENDED that the Notice of motion not be adopted and that the current arrangements pertaining to Committee reports, as described be maintained.

**TRIM Record No:** BP11/104:EF10/363

## Notice of Motion

**Cr Simon Clough** has given notice of intention to move:

That Council:

Write to the Australian Competition and Consumer Commission (ACCC) requesting that it investigate the sale of heavily discounted generic brand milk in large supermarkets, especially Coles and Woolworths. This investigation is to focus on the impact of the discounting on the longer term viability of all aspects of the Australian dairy industry.

### ***Councillor Comment***

The dairy industry and NORCO are significant employers in this local government area. This community cannot take the risk that the discounting of milk prices by the large supermarkets will adversely affect local employment and the viability of the industry.

We are all aware of how the drought, recent floods and heavy rains have battered the dairy industry. Dairy farmers and milk processors should not be put under unfair pressure to reduce their returns by the major supermarkets because of their enormous buying power.

The repeated denials by the supermarkets that the heavily discounted milk will have no impact on dairy producers are not reassuring. It seems obvious that the “generic” milks will gain market share over the branded milks strengthening the position of the major supermarkets in any future negotiations over milk prices. It is also quite unclear what affect this discounting will have on milk processors like NORCO which is owned by local dairy farmers.

### ***Staff Comment***

#### **Business Facilitator**

NORCO management was contacted for comment and the attachment is NOROC’s submission to an upcoming Senate inquiry into milk pricing.

### **Attachment/s**

1. NORCO Media Release

**TRIM Record No:** BP11/110:EF09/631

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# Reports

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# Report

|                                      |   |
|--------------------------------------|---|
| <b>Subject</b>                       | <b>Development Application 5.2010.77 - Cameron Road, McLeans Ridges</b> |
| <b>TRIM Record No</b>                | BP11/109:DA10/77-03   |
| <b>Prepared by</b>                   | Development Assessment Officer (Planning)                               |
| <b>Reason</b>                        | For determination by Council.   |
| <b>Community Strategic Plan Link</b> | Provide Sustainable Land-use Planning                                   |

## Overview of Report

The subject DA has a long history dating back to the lodgement of the rezoning application of the subject land in 2004, which was the subject of significant community interest. The rezoning process was concluded in late 2008 to incorporate relevant clauses permitting the proposed subdivision into the Lismore LEP 2000, and was accompanied by a planning agreement that has been entered into which would take effect upon the determination of the current DA. The terms of that planning agreement include requirements for contributions to be paid to Council for the upgrading of the surrounding road network.

The current DA was lodged in March 2010 and has been the subject of two public exhibition periods, and the subsequent drafting of a further addendum to the planning agreement in relation to the provision of a community lot within the proposed subdivision. This draft planning agreement has been exhibited following a resolution of Council in November 2010, and finalisation of that draft planning agreement is included within the context and recommendations of this report.

The DA has generated a large number of submissions which cover a range of topics that are addressed within this report. Of particular concern has been the adequacy of the existing road network in the locality, which was the subject of an independent report prepared by a consulting engineer. The results of that report were presented to Councillors at a briefing session in February 2011.

The DA is submitted to Council for determination due to the significant public interest, and the matters raised in submissions to the DA.

## Background

The subject lands are currently zoned 1(a) (General Rural Zone) under the provisions of the Lismore Local Environmental Plan (LEP) 2000, and is identified on the *Richmond Hill/McLeans Ridges Localities – Potential Rural Residential Subdivision Areas* map (Lismore Rural Housing Strategy, February 2002) as being within a “potential rural residential area”.

Newton Denny Chapelle on behalf of the various landowners of the subject land submitted to Council in March 2004 a proposed amendment to the Lismore LEP 2000 to enable the subdivision of eight (8) existing rural lots to create a total of sixty five (65) lots (including residue lots) plus a community lot. After discussions with Council Strategic Planning staff and following a number of modifications Council resolved at its meeting of October 2006 to exhibit the proposal. The draft LEP amendment, supporting information and Planning Agreement was exhibited from 16 April to 28 May 2007 with submissions to the proposal considered at the Council meeting of 7 October 2007. The original draft LEP was broader than the lands the subject of this Development Application (DA) and proposed a total of seventy two (72) lots (including residue lots) plus a community lot in the Cameron Road area and included a further 30 lots in the Roseview Road area.

However following the Council meeting of October 2007 the Applicant was asked to submit an amended proposal taking into consideration matters raised by Council. Council at its meeting of 12 February 2008 considered a Strategic Planning staff report on the amended draft LEP subdivision and resolved to:

1. *Exhibit the re-drafted LEP Amendment No.20 together with the revised rezoning submission, additional supporting documentation, updated social impact assessment and amended Planning Agreement for a period of twenty eight (28) days, and*
2. *Refer the revised proposal and additional supporting documentation to relevant government agencies and other public authorities for comment.*

The revised draft LEP Amendment No.20 with supporting information and amended Planning Agreement was placed on public exhibition from 25 February to 28 March 2008. Council received two hundred and five (205) public submissions in response to the exhibition of which 201 were in the form of objection and four were in support of the proposal. Council at its Ordinary Meeting of 8 July 2008 considered a Strategic Planning staff report in respect of Amendment No. 20 to Lismore LEP 2000. This Council report provided an assessment of the issues identified in the public submissions and responses from the State Government Agencies and public authorities to a revised rezoning proposal for Cameron Road, McLeans Ridges.

The Council report confirmed that there had been a significant level of public objection to the proposed rezoning however, notwithstanding such, it was determined by Council that the relevant planning issues and statutory requirements had been either satisfactorily addressed or could be addressed through proposed changes to the Planning Agreement or when more detail was provided at the development application stage.

Council resolved to adopt LEP Amendment No. 20, execute the amended Planning Agreement under the seal of Council and forward the Amendment and Planning Agreement to the Minister for Planning. As a consequence of the above:

- amendment No. 20 was gazetted on the 24 December 2008 (Govt Gazette No. 160).
- a Planning Agreement was entered into between Council and the landowners on 16 October 2008.
- Council by letter dated 23 October 2008 advised that a copy of the Planning Agreement had been sent to the Minister pursuant to Section 93G of the EP & A Act 1979.

The result of Amendment No. 20 was to include the following in “*Schedule 4 – Additional development on certain land*” to which Clause 28 of the LLEP 2000 applies:

| Column 1   | Column 2  | Column 3   |
|--|---|--|
| Land   | Purpose   | Development standards or conditions  |
| Lot 123 DP 731488 Boatharbour Road, Eltham, Lot 2 DP 588282 and Lots 4 & 5 DP 572949, Cameron Road, McLeans Ridges | Rural residential subdivision to create a maximum of 36 rural residential lots, a lot to be dedicated as a public reserve and a residue lot | Consent must not be granted to the purpose specified in Column 2 unless the application is made within 3 years after the commencement of Lismore LEP 2000 (Amendment No. 20) |
| Lot 6 DP 572949, Cameron Road, McLeans Ridges  | Rural residential subdivision to create a maximum of 7 rural residential lots   | Consent must not be granted to the purpose specified in Column 2 unless the application is made within 3 years after the commencement of Lismore LEP 2000 (Amendment No. 20) |
| Lot A DP 420518, Cameron Road, McLeans Ridges  | Rural residential subdivision to create a maximum of 6 rural residential lots   | Consent must not be granted to the purpose specified in Column 2 unless the application is made within 3 years after the commencement of Lismore LEP 2000 (Amendment No. 20) |
| Lot 2 DP 551775, Cameron Road, McLeans Ridges  | Rural residential subdivision to create a maximum of 10 rural residential lots  | Consent must not be granted to the purpose specified in Column 2 unless the application is made within 3 years after the commencement of Lismore LEP 2000 (Amendment No. 20) |
| Lot 12 DP 842905, Boatharbour Road, Boatharbour  | Rural residential subdivision to create a maximum of 3 rural residential lots and a residue lot   | Consent must not be granted to the purpose specified in Column 2 unless the application is made within 3 years after the commencement of Lismore LEP 2000 (Amendment No. 20) |

Integral to the processing of Lismore LEP Amendment No. 20 was the execution of a Planning Agreement pursuant to Subdivision 2 – Planning agreements of Division 6 – Development Contributions of the EP & A Act 1979. The Planning Agreement was entered into on 16 October 2008 (a copy is provided as an Attachment to this report).

The planning purposes served by the Planning Agreement as detailed in Clause 4.1 of the Appendix to *Clause 37 – Explanatory Note Relating to this Agreement* are to ensure that:

- *any future development application for subdivision of the subject land is generally consistent with the concept that has been publicly exhibited with the rezoning proposal; and*
- *community facilities and public infrastructure are provided or upgraded to a standard necessary to service the proposed development*

Section 3 of the Planning Agreement imposes a number of obligations upon the making of development applications by landowners to which the agreement relates (being Clauses 3.1-3.2).

The following describes the manner in which these requirements have been addressed:

- Clause 3.1 – This development application relates to the aggregation of all of the lots to which the Planning Agreement relates and is made with the express written approval of each of the registered proprietors (per Schedule 1). This development application proposes development that is in accordance with the Rezoning Submission prepared by Newton Denny Chapelle (Reference No. 01/202).

- Clause 3.2 – Each landowner agrees to the making of the development application subject to the following:
  - Clause 3.2.1 – The inclusion of a copy of the Planning Agreement as part of the development application (refer to Attachments).
  - Clause 3.2.2 – Each of the landowners that are party to the Planning Agreement acknowledge that Council may, to the extent permitted by law, take the Planning Agreement into consideration in deciding whether to grant consent to the development proposed by this development application.
  - Clause 3.3.3 – Each of the landowners undertake to be bound by the Planning Agreement in connection with the carrying out of the development subject to the granting of consent to this development application, whether or not that consent is subject to a condition to that effect.

## Description of Proposal

Development consent is sought to undertake the subdivision of the land to create 62 rural residential lots, 1 open space community lot (public reserve) and 2 residue lots. Integral to the subdivision is the construction of 3 new roads (cul-de-sacs), upgrading of Cameron Road and other works and contributions as detailed in the Planning Agreement.

A copy of the proposed subdivision layout which identifies the size and shape of each lot and the road layout and the proposed community (public reserve) can be viewed in the attachments to this report.

The proposed development is an 'Integrated Development' under the EPA, Act, 1979 and required approval concurrence from *NSW RFS*, *NSW Department of Industry & Investment* and *NSW Office of Water*. Please refer to the 'Integrated Referrals' section of the report which provides a summary of the comments received by these government agency's.

As a result of further detailed planning undertaken in the development application process the Applicant has made a number of relatively minor changes to the proposed lot layout. However the development proposal remains consistent with the 'Planning Agreement' concept subdivision plan in respect of development footprint, allotment layout and number, road patterns, siting of dwellings and effluent disposal fields, road upgrading and the provision of community facilities. It is considered that these adjustments and variations neither constrain the development or create additional impacts as a consequence of their incorporation into the development proposal.

The following Table identifies, describes and provides justification for the adjustments and variations now proposed to LEP Amendment 20 concept subdivision plan (Dwg No. 01202X):

| Item | Description                       | Commentary  |
|------|-----------------------------------|---|
| A    | Access arrangements Lot 36        | Lot access arrangements modified to avoid excessive driveway length – sight distance adequate. No constraints or impacts identified.  |
| B    | Road Reserve Width                | Road reserve width for short cul-de-sacs reduced from 20 to 16 m – complies with provisions of Northern Rivers Design Guidelines. No constraints or impacts identified.   |
| C    | Property Boundary Lot 300 and 402 | Lot boundary line modified to remove irregular lot shape. No constraints or impacts identified.   |
| D    | Property boundary Lot 29/30       | Lot boundary relocated 25m further westward, building and effluent disposal envelopes adjusted. Provide more separation between proposed and existing dwellings and setbacks to Cameron Road. Proposed dwelling and effluent disposal envelopes of similar characteristics to that shown on Dwg. 01202X. No constraints or impacts identified |
| E    | Lot 201 relocated                 | Existing Road Reserve excluded from application. Lot 201 relocated with access from cul-de-sac. Lot 200 increase in size. Lot 208 decrease in size to accommodate new lot 201. Complies with Schedule 4, Amendment 20 of the LLEP 2000 and schedule 2 of the Planning Agreement. Removes direct access to Cameron Road for lot 201.           |

|   |  |  |
|---|--|--|
|   |  | Adequate building and effluent disposal areas are available. No constraints or impacts identified.   |
| F | Building and effluent disposal envelopes | General revision to building and effluent disposal field envelopes to ensure compliance with Council requirements and the outcomes of the effluent disposal assessment report. No constraints or impacts identified. |

The following table identifies the approximate size and total/combined road frontage for each of the proposed lots (including the public reserve and 2 residue lots):

| Lot No.               | Approx Area m <sup>2</sup> | Lot No. | Approx Area m <sup>2</sup> | Lot No.   | Approx Area m <sup>2</sup> |
|-----------------------|----------------------------|---------|----------------------------|-----------|----------------------------|
| 1                     | 8079                       | 25      | 7896                       | 200       | 19100                      |
| 2a                    | 6704                       |         |                            | 201       |                            |
| 2b                    | 6085                       | 26      | 6676                       |           | 6925                       |
| 3                     | 6853                       | 27      | 16300                      | 202       | 3072                       |
| 4                     | 10700                      | 28      | 6697                       | 203       | 4351                       |
| 5                     | 13400                      | 29      | 8208                       | 204       | 4434                       |
| 6                     | 7344                       | 30      | 13200                      | 205       | 4570                       |
| 7                     | 8051                       | 31      | 91900                      | 206       | 15323                      |
| 8                     | 7971                       | 32      | 6756                       | 207       | 3746                       |
| 9                     | 7309                       | 33      | 8288                       | 208       | 15400                      |
| 10                    | 7817                       | 34      | 8439                       | 209       | 4725                       |
| 11                    | 7591                       | 35      | 8629                       |           |                            |
| 12                    | 6255                       | 36      | 26800                      | 300       | 29982                      |
| 13                    | 5715                       | 37      | 11500                      | 301       | 7105                       |
| 14                    | 6303                       |         |                            | 302       | 7115                       |
| 15                    | 6739                       | 100     | 6080                       | 303       | 6861                       |
| 16                    | 13900                      | 101     | 6650                       | 304       | 6166                       |
| 17                    | 10800                      | 102     | 4959                       | 305       | 4479                       |
| 18                    | 8510                       | 103     | 5644                       |           |                            |
| 19                    | 7075                       | 104     | 8752                       | 400       | 8106                       |
| 20                    | 6619                       | 105     | 47800                      | 401       | 21785                      |
| 21                    | 6496                       | 106     | 9252                       | 402       | 9585                       |
| 22/23 – Community Lot | 14659                      |         |                            | Residue 1 | >40ha                      |
| 24                    | 7517                       |         |                            | Residue 2 | >40ha                      |

*Note: Allotment areas and dimensions are subject to final survey and any requirements of development consent. Combined size of the 62 rural residential lots is approximately 677,089m<sup>2</sup>*

With the exclusion of the community lot and residue lots, the rural residential allotment sizes range from 3072m<sup>2</sup> to 9.19ha with an average of 10,920m<sup>2</sup>.

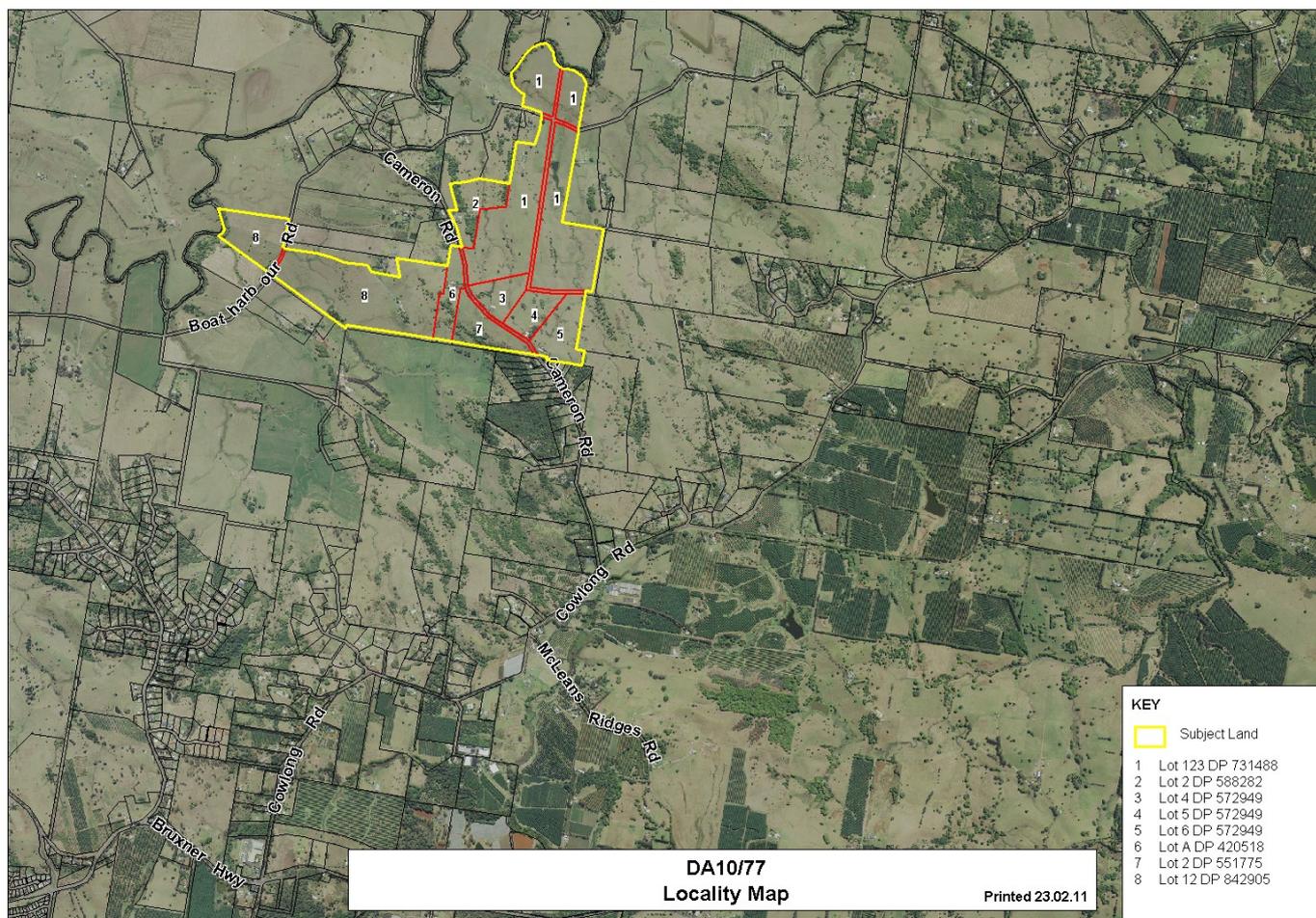
All lots, with the exception of those allotments at the head of cul-de-sacs, have a minimum 70m road frontage.

The following is a summary of the works and monetary contributions required by the Planning Agreement that are integral to the proposed subdivision. The actual terms and conditions of the works and contributions are detailed in the Planning Agreement.

- payment of monetary contributions being:
  - \$10,820.00 per each Final Lot towards the cost of upgrading of Cowlong Road
  - \$2,366.00 per each Final Lot towards the cost of upgrading of Boatharbour Road
  - \$632.00 per each Final Lot towards the cost of upgrading of McLeans Ridges Hall.

- works within Lot 123 DP 731448 comprising:
  - undertake and maintain rehabilitation work on that land in accordance with the document entitled 'Environmental Management Plan' prepared by Place Planning and Design (dated 25 September 2006) subject to the requirements of any development consent relating to the land
  - remove any woody weeds in the rehabilitation area by non-mechanical means only
  - payment of a bond to Council in the amount of \$172,500.00 as a security for the rehabilitation work referred to above.
- upon satisfactory construction of Road 1 (within Lot 123 DP 731448), the full length of Road 1 is to be dedicated to Council.
- create a registered right of carriageway in favour of Lismore City Council for emergency fire egress burdening Lot 123 DP 731448.
- construction of a fire service trail (in accordance with the requirements of the NSW Rural Fire Service's "Planning for Bush Fire Protection") on the land proposed to comprise the right of carriageway from the end of Road 1 to Boatharbour Road.
- construction of a 1.2m wide footpath along the full length of the frontage of the Final Lot in accordance with the plan numbered 01/202P prepared by Newton Denny Chapelle dated 19/08/08 and otherwise in accordance with any relevant development design and construction specification adopted by Council from time to time.
- upgrade Cameron Road to a 7m wide bitumen road seal on a 9m wide road formation with a 100mm gravel overlay and 200mm depth cement stabilisation of the existing pavement along the full length of the frontage of any Final Lot in accordance with engineering plans approved by Council.
- landscape Cameron Road in accordance a landscaping plan approved by Council following completion of the upgrade of Cameron Road.
- provide a community lot (as amended) with an area of no less than 14,000m<sup>2</sup>; and dedicate the Community Lot to Council as a Public Reserve when 50 lots in the Cameron Road subdivision have been registered; complete earthworks, retaining walls, topdressing and grassing on the Community Lot to achieve an area of 3,600m<sup>2</sup>; provide a graded, grassed carparking verge for a minimum of six (6) car bays prior to the Community Lot being dedicated as Public Reserve; provide park embellishments to the value of \$70,000 (indexed to CPI) including a picnic shelter, slab floor, tables, seating, bin, swing, tank and water tap and landscape trees.
- construct two bus shelters in locations approved by Council.

## Locality Map



## Statutory Controls

*Environmental Planning & Assessment Act 1979*

*Lismore LEP 2000*

Zoning – 1(a) General Rural and 1(r) Riverlands, the proposed new rural residential allotments are located within the 1(a) General Rural lands.

Draft Lismore LEP 2010

S94 Contributions Plan – Applies subject to compliance with the 'Planning Agreement'

SEPP No. 1 Development Standards

SEPP No. 44 – Koala Habitat Protection

SEPP No. 55 – Remediation of Land

SEPP (Rural Lands) 2008

North Coast REP

Advertised Development

Integrated Development

Lismore City Council

Meeting held 8 March 2011 - Development Application 5.2010.77 - Cameron

Road, McLeans Ridges

## Policy Controls

Lismore DCP 2007

- 1.8.2 Access to Battleaxe Type Subdivisions
- 1.8.4 Undergrounding of Electricity Mains & Provision of Street Lighting
- 1.8.6 Undergrounding of Telephone Plant in Subdivisions
- 5.2.4 Naming of New Roads
- 5.2.21 Erection of Structures & Filling & Excavation – Easements
- 5.2.30 Social Impact Assessment
- 5.3.2 Planning Agreements Policy

## Description of Locality

This application relates to the subdivision of 8 lots. Details of the respective lots are provided in the following table:

| Property Description   | Street Address                       | Area                           | Property Owner                              |
|------------------------|--------------------------------------|--------------------------------|---|
| Lot 123 DP 731488      | 583 Boatharbour Road, Eltham         | 62.07ha                        | JE & SA Davis                               |
| Lot 4 DP 572949        | 102 Cameron Road, McLeans Ridges     | 6.07ha                         | TM & CA Will                                |
| Lot 5 DP 572949        | 134 Cameron Road, McLeans Ridges     | 6.07ha                         | WT Ducker                                   |
| Lot 6 DP 572949        | 154 Cameron Road, McLeans Ridges     | 9.3ha                          | PC & KA Baldock                             |
| Lot A DP 420518        | 77 Cameron Road, McLeans Ridges      | 6.07ha                         | LI & SL Lawson                              |
| Lot 12 DP 842905       | 357 Boatharbour Road, McLeans Ridges | 45.3ha                         | DP & SG Veness                              |
| Lot 2 DP 588282        | 54 Cameron Road, McLeans Ridges      | 8.341ha                        | Fellowes Corporation Pty Ltd & JV Arrondonk |
| Lot 2 DP 551775        | 103 Cameron Road, McLeans Ridges     | 8.265ha                        | PB Priest                                   |
| Crown road reserves    |                                      | Approx 1ha                     | Crown                                       |
| <b>Total Site Area</b> |                                      | <b>151.486ha + Crown roads</b> |   |

The land is situated in the Northern Rivers region of NSW, some 10km to the north-east of Lismore. Road access to Lismore is via Cameron Road, Cowlong Road and/or McLeans Ridges Road and the Bruxner Highway (approx 16km) or via Cameron Road, Boatharbour Road and Bangalow Road (approx 13km).

The land is currently rural in character, being predominantly cleared and used for rural residential and low intensity agricultural purposes (cattle grazing). Site elevations range from approximately 58m – 136m AHD.

### Topography

Essentially the site comprises two ridges running generally in a north-south direction together with east and west facing side slopes. The land upon which the rural residential lots are proposed is elevated and situated generally along the ridge.

The subject land comprises a generally north-south ridgeline with Cameron Road effectively running along the crest/middle of the ridgeline. Due to the elevated nature of the land it is reasonably visible in the local catchment, particularly when viewed from the north, west and south.

## Vegetation

A detailed description of the vegetation of those parts of the site proposed to be subdivided for rural residential purposes was undertaken by Place Environmental in 2006 with further reporting in 2008. A separate ecological assessment for the upgrade of Cameron Road was also undertaken by Place Environmental in 2006.

The investigation identified a total of 5 vegetation communities on the land:

- Community 1 – Closed Forest (Camphor Laurel)
- Community 2 – Closed Forest (Camphor Laurel/Broad-leaved Privet +/- Rainforest Regrowth)
- Community 3 – Closed Forest (Rainforest Regrowth)
- Community 4 – Open Pasture
- Community 5 – Stillwater Vegetation

The investigation reported as follows:

- informal landscaping, planted feature trees and hobby orchards exist around or in close proximity to most residences
- the vegetation cover for the remainder of the site is comprised of improved and degraded pasture dominated by *Pennisetum clandestinum* (Kikuyu) and *Axonopus affinis* (Narrow-leaved Carpet Grass), with sporadic dominance of *Imperata cylindrica* (Blady Grass), *Chloris gayana* (Rhodes Grass) and *Cymbopogon refractus* (Barbed Wire Grass)
- scattered groves of degraded regrowth rainforest, Camphor Laurel and Broad-leaved Privet-dominated regrowth and isolated paddock trees

## Road Access

Vehicular access to the proposed new lots will be via an upgrade to Cameron Road plus the construction of three new cul-de-sacs off Cameron Road, details of which are as follows:

- Road 1 – 970m in length, constructed two lane rural road with a 6.0m wide sealed pavement on an 8.0m formation width within a 20.0m wide road reserve.
- Road 2 – 208m in length, constructed two lane rural road with a 6.0m wide sealed pavement on an 8.0m formation width within a 16.0m wide road reserve to Aus-Spec standards.
- Road 3 – 175m in length, constructed two lane rural road with a 6.0m wide sealed pavement on an 8.0m formation width within a 16.0m wide road reserve to Aus-Spec standards.

Cul-de-sac turning bays will have a 10m radius and all roads will be provided with kerb and gutter in lieu of grassed table drains where longitudinal gradients exceed 12%.

## Site Services

Reticulated electricity and telecommunication services exist in the locality, servicing the subject land. Such services will be extended to and connected to the new lots.

Due to there being no reticulated water or sewerage systems in the locality, any future dwelling house on any of the proposed lots will be required to be serviced by an on-site potable water supply and on-site wastewater management and disposal system.

## Surrounding Development

The immediate locality is predominated by a mix of rural and rural residential uses. The locality is characterised by the following:

- dwelling houses and ancillary domestic structures on rural residential lots
- dwelling houses and ancillary rural structures on larger rural (agricultural lots)
- productive agricultural uses including cattle grazing and intensive horticulture
- stands of bushland vegetation

## Relevant Development History

There has been previous rural residential subdivision applications (DA5.1983.2124.1, 5.1984.2128.1, 5.1995.178.1 and 5.1995.461.1) submitted over the subject land, some of which were withdrawn, approved or refused. However, none of those previous development applications were submitted under the provisions of existing Lismore LEP 2000 and therefore the most relevant development history in relation to the subject properties relates to the Council's approval of Amendment No. 20 to Lismore LEP 2000, as detailed previously in this report.

## Internal Referrals

### Environmental Health Comment Summary

#### On-Site Sewage Management

Council's *Revised On-Site Sewage and Wastewater Management Strategy 2007* (OSWMS) (adopted by Council's DCP) provides design requirements for sub-division applications. Key design parameters include:

- The need to provide "low-tech gravity fed" systems (i.e. septic tank and ETA beds, compost toilet with grey water tank and ETA beds, septic tank, reed bed and ETA beds).
- Provide buffers to watercourses and drainage lines.
- Consideration of groundwater (discussed in more detail under its own heading below)

As part of the previous rezoning application for this site, a preliminary land capability assessment was undertaken by Aspect North, which outlined the general suitability for on-site wastewater disposal. Due to the limited scope of this report, a more detailed assessment was carried out by Newton Denny Chappelle (June 2006). This report identified the soils for the development site ranging from clay loam to medium clay. Using Council's wastewater model, two sewage systems were proposed – a primary treatment system (septic tank and ETA beds) for sites with clay loam and a secondary treatment system (septic tank, reed beds and ETA beds) for sites with light/ medium clay. Suitable land application areas were identified that met the appropriate buffer setbacks.

As part of this sub-division, a further detailed effluent disposal investigation was undertaken by Ardill Payne & Partners (APP) in February 2010. The intent of that report was to combine all information to date and address item 6 of the Lismore City Council draft Amendment Report No.20 to Lismore LEP dated 8 July 2008, for the following:

- Individual assessment of effluent disposal areas on sites restricted by the presence of rocky outcrops. Assess the percentage of coarse fragments to determine if the disposal areas will be limited by the percentage of rock present, and
- Clearly demonstrate that the proposed lots will incorporate an effluent disposal envelope that is uncompromised by the percentage of rock present.

From the information provided, the main constraints for effluent disposal have been identified as buffer distances to watercourses, slope greater than 15%, and the presence of coarse fragments with each discussed below.

#### Buffer Distances

Under Council's OSWMS the following buffer distances apply:

- 100m to watercourses, both perennial and intermittent, and
- 40m to gullies or ephemeral streams, and
- 250m to domestic groundwater bores or wells.

An unnamed watercourse is present via the main drainage path running through the existing Lot 123 DP 731488. This drainage path becomes less defined in the upper reaches where the gully lines form a confluence point. Within these gully lines the presence of riparian vegetation and ground water seepage indicates an intermittent flow regime. Further upstream from this point the intermittent flow regime gradually dissipates into a dry gully, up towards Cameron Road.

The unnamed watercourse and intermittent gully has been provided a 100m buffer. Further upslope, a 40m buffer has been applied. The location of the effluent disposal areas (including reserve areas) for each allotment has been carefully designated to meet the buffer distance requirements for watercourses and gullies.

There are nine groundwater wells/bores located in the vicinity of this development according to the Department of Water. From this information, there are two groundwater bores (GW 46368, GW 035514) which are used for domestic purposes and are within 250m of an effluent disposal area envelope. To protect public health, GW 035514 will be decommissioned while GW 46368 will be prohibited for domestic use. Conditions have been imposed to this effect.

## Slope

Excessive slope within an effluent disposal area may pose installation problems due to uneven distribution, resulting in run-off and erosion issues. Under Council's OSWMS slopes greater than 15% are a limitation to effluent disposal, and require specialised solutions.

For this proposal lands with slopes of 15% or less have been identified as potential effluent disposal areas. The location of the effluent disposal areas (including reserve areas) for each allotment has been carefully considered to be sited on slopes 15% or less and provide low-tech gravity feed from the proposed building envelopes.

## Course Fragments

The initial investigation by NDC identified two areas potentially impacted by coarse fragments. A detailed investigation, including soil sampling, was conducted by APP on the impacted lots to determine the percentage of coarse fragments.

Under Council's OSWMS, where coarse fragments exceed 20% a major limitation exists. Based on the soil profiles encountered in the proposed lots, Lots 401 and 305 were deemed to be constrained with coarse fragments exceeding 20%, Proposed Lots 16, 17, 18, 19 and 304 were found to contain less than 20% coarse fragments. However while Lot 17 contained only 15% of coarse fragments, stones of 300 – 500mm in size were encountered in the test pit which may impact on effluent disposal efficiency. Therefore Lot 17 has been considered and treated as constrained.

To manage the limitations of Lots 305, 401 and 17 it is proposed to excavate the soil from the proposed effluent disposal envelope and replace it with a similar clay loam / light clay soil type.

It was noted that the borehole logs for these constrained lots identified depth of soil at 0.6m. Council's OSWMS states a minimum 0.6m of soil below the base of the ETA bed. This allows for additional treatment of effluent and minimises the potential for downslope seepage. Therefore, a condition is proposed requiring the importation of soil to achieve a one metre soil depth ie 400mm above ground surface level.

## Critical Vegetation Constraints

The vegetation constraints of the site have been assessed in detail by Aspect North, Place Environmental, and a final report by Ardill Payne & Partners. Based upon the information submitted, and subsequent review by Councils Ecologist critical threatened species identified in the development area are located outside of proposed effluent disposal areas and therefore should not be impacted by the presence of any on-site sewage management systems.

While the report recommends the use of primary treatment systems for sites with clay loam, in reality secondary treatment will be the best practicable option with consideration to slope, soil type and the number of ETA beds required. The use of secondary treatment will further reduce the effluent disposal area envelope for many sites and reduce the risk to public health and the environment.

## **Existing On-Site Sewage Management Systems**

The proposed sub-division will result in boundary adjustments of existing lots containing dwellings. These dwellings, owned by the proponents of the sub-division, contain existing on-site sewage systems, some of which will require upgrading or installation of a new facility to facilitate this development. A condition would need to be imposed requiring further investigation into the status and location of these systems and the submission of septic applications where required.

## **Buffers**

The subject land is predominately surrounded by agricultural lands with the main land use activity being cattle grazing. Council's DCP Part A – Chapter 11 provides guidance on appropriate buffers and stipulates a minimum 30m setback between grazing and residential development, with a minimum five (5) metre planted buffer along boundaries. In relation to watercourses, a distance of 50m is required in unsewered areas between residential dwellings and watercourses.

The proposed building envelopes meet both the 30m buffer to agricultural land and 50m buffer to watercourses. A five metre planted buffer will be required along boundaries, and this will be imposed as a condition of consent for the development approval.

With due consideration to the relevant facts, land use conflict is unlikely to result from this development and should not pose any restrictions to the development.

## **Cattle Dip Site**

There are no cattle dips sites within 200m of the development site. The nearest cattle dip site is located on Boatharbour Road approximately 1km from the development site, which will not pose any limitations to the proposal.

## **Contaminated Land**

A preliminary contaminated land assessment was undertaken by Environmental Analysis Laboratory, dated June 2006 as part of the rezoning process in response to Council's "Regional Policy for the Management of Contaminated Land".

This report included a history check which revealed the site has been used in the past for minor grazing agriculture or was vacant land. A site-sampling regime was undertaken of surface soils to determine if the site has been contaminated from heavy metals, organochlorine and organophosphate pesticides.

The results of the sampling were compared with Column 1 of the NSW EPA (1998) "Contaminated Sites – Guidelines for the NSW Auditor Scheme". From these results it is considered that the site can be classified as uncontaminated for the proposed future land usage of rural residential subdivision. However, the report did not identify former horticultural land and a cattle yard area. These two areas have a high potential for residual soil contamination from past activities and were identified as areas requiring further investigation for any sub-division of the land.

Consequently, a detailed contaminated site investigation was undertaken by Ardill Payne & Partners, dated February 2010 on the land identified as a former banana cultivation area and cattle crush. In the past these activities typically used pesticides containing heavy metals such as arsenic and lead and also of an organochlorine base (eg DDT).

A systematic sampling pattern was undertaken for the banana cultivation area as outlined in NSW EPA Guidelines. For the cattle yard, a single sample was taken and considered appropriate as the site does not have a history of dipping or other uses, and would not be expected to contain high levels of heavy metals.

The samples were tested for the presence of heavy metals and organochlorines. The results of the soil analysis was compared against NSW DECC guidelines for urban development being "Residential with gardens and accessible soil", and "Parks, recreational open space".

The soil analysis results indicate that contaminant levels for chemicals of concern are below health based investigation levels for “Residential with gardens and accessible soil”, and “Parks, recreational open space”, as required by the EPA guidelines. Organochlorine pesticide compounds were not detected in the samples. All heavy metals were below the soil investigation criteria for Residential and Parks, except for manganese and nickel. These metals are typically found in the volcanic rock of the regional soil landscape and are commonly found in elevated concentrations in the red krasnozems soils, such as those present on the site. Consequently, these metals are not considered to be above normal background levels for the soil type here.

From this conclusion, further investigation or site remediation is not required for the proposed development, including the former banana cultivation area and cattle yard. The site does not represent a significant risk of harm to users of the development. As such, a more detailed investigation is not required and there are no conditions relating to contamination which should be imposed on this development.

### **Potable Water Supply**

A potable water supply for future development will be provided through individual roof harvest systems.

### **Development within Urban Water Supply Catchments**

Any development within an urban water supply catchment should maintain the quality and quantity of ground and surface water resources.

### Groundwater

The protection of groundwater is a key consideration for this development with nearby bores and wells being used for both domestic and agricultural use in addition to the development being within an urban water supply catchment. The main potential for groundwater contamination from this development is from on-site sewage management systems. Council’s OSWMS requires a 250m buffer distance to any domestic groundwater wells or bores.

To protect groundwater, secondary treated sewage systems have been proposed. These systems meet strict wastewater quality standards which are typically low in nutrients and faecal coliforms. Additional treatment is afforded through the soil profile immediately below the effluent disposal area.

An important consideration when assessing the potential for groundwater contamination is the depth of water below the ground. The digging of soil pits (as discussed in the sewage management reports) did not encounter any groundwater to a depth of two metres. In addition, the soil samples did not reveal any signs of intermittent wetting. Dull grey mottled soils indicate seasonal or continuous saturation, while a bleached A2 horizon can indicate a perched watertable. The soils found over the development site did not portray any of these signs which indicate a groundwater table at depth. Indeed an assessment of water flow in the drainage lines within the development site indicate potential baseflow occurring at the confluence point of two gullies between proposed lots 20 and 33. In addition, information provided by the Department of Natural Resources on Groundwater Works found bores within the development site with water bearing zone at depth of 26.2 metres below ground surface level at the upper reaches of the catchment.

## Surface Water

The protection of surface waters has been considered within the effluent disposal assessment for individual allotments. This development is located in the upper reaches of the sub-catchment with many dry gullies and intermittent watercourses. As previously discussed, appropriate buffers (100m to watercourses and 40m to gullies) have been designated for all on-site sewage management systems along with secondary treatment. By providing a high level of effluent quality and appropriate buffers to all effluent disposal areas, the disposal of effluent on-site should not pose a significant risk of harm to the environment or to the urban water supply being pumped from the Wilsons River.

## **Waste Management**

The proposed subdivision development will be serviced by council's solid waste management service.

## Social Planner Comments

The Social Impact Assessment (SIA) report submitted with the application is dated 2007 and is the same SIA that was completed for the LEP amendment relating to this land. The community expressed concerns regarding the SIA, particularly with respect to the demographic analysis based on the Richmond Hill Collection District data from the ABS. The community felt that this was not reflective of the makeup of their particular community (which borders 3 collection districts). The Social Planner does not support this assertion as the two populations share many similar demographic characteristics.

Upon review of the adopted Planning Agreement, it was noted that many of the community concerns expressed during the rezoning application have since been addressed. In particular the following is noted:

- contribution towards the cost of upgrading part of Cowlong Road
- contribution towards the cost of upgrading part of Boatharbour Road
- contribution towards the cost of upgrading McLeans Ridges Hall
- construction of footpaths
- upgrade Cameron Road
- construct 2 bus shelters
- provision of a 14,000m<sup>2</sup> community lot plus six car parking spaces and park embellishments (picnic shelter – concrete slab floor, tables & seating, bin facility, swing, tank & water tap, landscaping).

Given the above requirements of the planning agreement it is not considered necessary to require that the proponents undertake an updated SIA.

It is noted that in April 2010 Council adopted the SIA Guidelines. The McLean's Ridges community may be of the opinion that, as the policy came into force after the original SIA was undertaken, a new SIA should be required. However, there is no likely gain in doing this and the SIA submitted with the rezoning application and this application is considered to have satisfactorily addressed social impact assessment issues relating to this DA.

## Development Engineering Comment Summary

### **Road Network**

Council's Development Engineer has reviewed the following documentation in providing comments on the proposed subdivision:

1. Relevant documentation and reports provided in relation to the rezoning proposal
2. The 2008 planning agreement
3. Relevant documentation and reports provided in relation to the current DA
4. The Road Infrastructure Assessment by Stephen McElroy & Associates dated January 2011

The proposed development fronts Cameron Road with the traffic generated from the development impacting Cameron Road, Cowlong Road and Boatharbour Road. The traffic impact of the development has been the source of much debate in Council as well as the local community. Council considered these issues during the LEP amendment process, the Planning agreement process and most recently when Council engaged an independent consultant to assess the local road network adjoining the proposed development.

This recent report highlighted the deficiencies in the current network and remedial action required to improve the safety and the level of service of the network. It is important to note the report highlighted the following issues:

- That the existing network is deficient in regard to pavement width and depth
- All three roads (Cameron, Boatharbour and Cowlong Roads) currently operate under free flow conditions and will continue to do so in the foreseeable future regardless of whether the development proceeds. However due to narrow pavement section and increased volume of traffic from the development, the proposed development may increase the frequency of vehicles passing each other on these roads.
- After a house has been built on all of the proposed new allotments it is possible that there will be a requirement for one additional school bus.
- The sight distances at both the Boatharbour Road and Cowlong Road intersections are extremely poor for the designated speed limits. The report recommended that no further traffic be encouraged to use the intersections until approach speeds are reduced, or sight restrictions eliminated.
- That funding available to Council by means of the planning agreement will be available to assist in addressing the concerns associated with some of the higher risk elements (refer to detail comments in this report)
- Once these higher risk elements have been remediated the network could readily absorb the traffic generated by the development.

## **Traffic Impact on Local Roads**

The proposed subdivision development is situated in a rural area and locality where there are a number of existing rural residential estates (Roseview, Satinwood, Floreat Park and Belbourie). The proposed development is deemed compatible with this land use.

In regard to the local road network council must ensure the development does not impose an unreasonable burden on adjoining land owners and council resources. In order to address this council has entered into a planning agreement which amongst other things requires the developer to:

- Upgrade Cameron Road to a 7m wide bitumen seal on a 9m formation with a 100mm gravel overlay and a 200mm depth cement stabilisation of the existing pavement along the Cameron Road frontage to the development.
- Provide the following monetary contribution as required by the Planning Agreement:
  - \$10,820 per final lot toward the cost of upgrading of Cowlong Road and
  - \$2,366 per final lot toward the cost of upgrading of Boatharbour Road

On the basis that the development will yield 62 final lots the total road contributions (subject to Price Indexing over time) are:

- Cowlong Road - \$670,840
- Boatharbour Road - \$146,692.

The Applicant will be conditioned to construct the three new Cameron Road intersections in accordance with the Northern Rivers Local Government Development and Design Manual and the Austroads Part 5 "Intersections at Grade". The DA would need to be conditioned to provide dedicated right turning lanes at each intersection. However each intersection will need to be designed in a manner to aid in reducing the speed environment to 60kph.

## **Safety Issues**

Council engaged an independent Consultant to prepare a report on the road network issues related to the Cameron Road DA at McLean's Ridges. For the purpose of the report the network is Cameron Road, Boatharbour Road and Cowlong Road. The report addressed:

- An audit of network deficiencies
- Costing to upgrade the network
- Proposed delivery time
- Traffic safety issues.

The report identified significant safety issues at the Boatharbour/Cameron Road intersection, the Cowlong/McLean's Ridges Road as well as reduced pavement width, pavement depth and shoulder width at various locations on all three roads. These issues currently exist and are largely independent of timing of this development, and it is not considered reasonable in the circumstances to impose the total cost of resolving all of these existing safety issues upon the developer.

The 2008 planning agreement provides for contributions to collected and directed to road infrastructure improvements that will address the road safety issues associated with the proposed subdivision. Provided that the planning agreement funds are collected, it has previously been acknowledged that Council bears the responsibility to undertake the necessary road network improvements that can be reasonably attributed to this development (other than the Cameron frontage). The Council's obligations in addressing these existing/future road safety issues are discussed later in this report, but essentially must be addressed by Council's Capital Works Program taking into account contributions received for road improvements in the locality.

The implementation and progression of this subdivision will occur over an extended period of time, providing incremental increases in traffic movements from the development. It is considered that this will enable Council sufficient time to progressively prioritise and address road safety deficiencies over a commensurate period of time for the development to reach its full implementation.

For the above reasons, it is concluded that the potential road safety issues arising from additional traffic generation of this proposed subdivision (including existing and future bus movements) can be satisfactorily addressed via appropriate conditions of consent, and are not considered to be an unreasonable impact that would in isolation justify the application being refused.

## **Boatharbour/Cameron Road Intersection**

This intersection suffers poor alignment and poor visibility. The risk of an incident occurring is considered high. The development is approximately 16 km from Lismore via the Bruxner Highway and approximately 13 km from Lismore via Boatharbour Road and Bangalow Road. A reasonable distribution of the traffic from the development is 36% of trips use Boatharbour Road. It is estimated that the peak hour traffic from the development projected to the year 2030 will be 22 vehicles per hour. The combined (development + local) peak hour traffic projected to 2030 will be 149 vehicles an hour. The proposed development contributes 15% of the total traffic.

There are various methods to determine a fair and reasonable contribution that a developer should make to various items of infrastructure. For indicative purposes, a simple approach for appropriate apportionment is to compare traffic volumes between the existing traffic and the additional traffic resulting from the development. The cost estimate based on a preliminary design as submitted by the independent consultant is \$260,000. Applying a general 15% traffic distribution factor, the developer's contribution would amount to approximately \$39,000. As detailed above the developer's contribution as required by the planning agreement is \$146,692 (in total, which would also include the remainder to be directed to road width and pavement improvements attributable to the proposal).

### **Cowlong/McLean's Ridges Road**

This intersection is shared with the Ballina Council and also suffers poor visibility. The risk of an incident occurring is considered high. The distribution of traffic from the development using Cowlong Road is 38%. The peak hour traffic projected to 2030 for Cowlong Road is 133 vph.

The development is estimated to increase this peak hour traffic by 24 vph. This represents an 18% increase in traffic. The estimated cost of the intersection is \$250,000. By applying the general traffic distribution factor the cost attributable to the development would amount to approximately \$45,000. The developer's contribution as required by the planning agreement is \$670,840 (in total, which would also include the remainder to be directed to road width and pavement improvements attributable to the proposal).

### **Cameron Road Speed Environment**

Cameron Road acts in the capacity of a sub-arterial rural residential road. Table 6-10 of the Lismore Development Control Plan requires Cameron Road to have a design speed of 60kph. The Traffic Advisory Committee meeting of 16 February 2011 considered the concerns raised by Council of excess speed on Cameron Road, Boatharbour Road and Cowlong Roads. The Traffic Advisory Committee recommended that a 60kph speed limit be introduced on the section of Cameron Road relative to the proposed subdivision with adequate physical traffic calming measures to be installed at the same time to ensure compliance with the lower speed limit.

In compliance with the requirements of council's DCP – Part "A", chapter 6 table 6-10 the Applicant should be required to:

- Design Cameron Road to 60 kph design (eg. introduce elements such as seagull intersection alignment, line-marking, tactile surfaces etc.)
- Introduce traffic management elements to ensure a 60 kph speed environment.
- Establish a 60 kph speed zone on Cameron Road by preparing a traffic management plan for endorsement by Council.

### **Cameron Road**

To comply with the Planning Agreement the Applicant will be required to upgrade Cameron Road to a 7m wide bitumen seal on 9m gravel formation complying with the Northern Rivers Local Government Development and Design Manual requirements. The Applicant will be required to overlay the existing pavement with 100 mm compacted depths of gravel and cement stabilise to a depth of 200mm.

### **Internal Roads 1, 2 and 3**

The proposed internal road layout generally meets the performance criteria defined in section 6.2 of the Lismore Development Control Plan- Part A for rural residential Subdivision. The Applicant is required to design the internal roads to a 40kph design speed.

In case of Road 1 where the length of road may encourage vehicles to exceed the design speed, the application would need to be conditioned to introduce speed restricting elements to ensure the speed environment matches the design speed.

All internal roads shall be designed and constructed in accordance with the Northern Rivers Local Government Development and Design Manual to a two lane rural residential local road standard with a 6m wide bitumen seal on an 8m gravel formation. Cul-de-sac heads for roads 2 and 3 shall have a 10m turning radius while road 1 shall have a 12.5m turning radius. Where the road longitudinal grade exceeds 12%, concrete kerb and channel shall be provided in lieu of the grassed table drains.

## **Allotment Access**

The application would need to be conditioned to construct vehicular accesses to all battle axe lots being lots 3, 27, 36, 103, 206, 208, 201, 301, and 401 as well as lots 200, 203-209, 302-304, and 100, 1 and 29-37 which have direct access to Cameron Road and access to lots 2a, 28 106 209 and 302 where direct access to Cameron Road is denied. This is to ensure that for reasons of visibility and safety Council can ensure that access locations are provided in the best location. There would be no requirement to provide vehicular accesses to the other remaining allotments as this is best served at the dwelling construction stage when the position of the dwelling is known.

Council would need to require the developer to design and construct the driveways for battle axe allotments in accordance with Council Policy Number 1.8.2 "Access to Battle Axe Type Subdivisions", Northern Rivers Local Government Development and Design Manual and the Lismore City Council Development Control Plan Part "A" . These driveways would be either concrete or bitumen/asphalt sealed. The Applicant would be required to run all services to end of the handle of the lots.

Access to lots 31 and 32 is problematic in that direct access from the property to the building envelope may not meet Council's requirement of maximum grade. The Applicant has provided two drawings numbers 6937 LP-B04 and 6937 LP-B05 demonstrating that the building envelopes can be serviced by driveways that satisfy council requirements.

The Applicant would also be required to a construct vehicle access providing access to the unconstructed road reserve between lots 5 and 6.

Existing vehicular accesses will be required to be upgraded to meet the current Council standards.

## **Public Transport**

The proposed development is currently serviced by 4 school bus companies which have sufficient capacity to cater for the initial needs of the development. It is anticipated that an extra service may be required to cater for the future demands of this and the neighbouring developments at some point in the future.

Development Control Plan Part "A" requires the Applicant to consider the future public transport demands of the development. The planning agreement addresses this by requiring two bus stops to be constructed within the development. The most likely positions for these bus stops are adjacent to lot 1 and lot 32 on Cameron Road. This must be confirmed at the design phase to ensure compliance with sight distances and general safety for people crossing Cameron Road. It is generally considered that bus stops should be located within 400m of each lot (refer D1.21 of the "Geometric Road design" chapter of the NRLG Development and Design Manual).

Concerns raised about the existing turning movements being undertaken by bus operators should be referred to Transport NSW for an appropriate response and action to ensure that these activities are endorsed as acceptable under any applicable codes, contracts or guidelines. The actions of bus operators and any consequences that subsequently arise are at the risk/liability of the bus operator (there are safer options for the bus driver that may be less convenient), and are unable to be resolved via this subdivision proposal. If this is an existing situation, an increase in traffic movements would possibly increase the potential risk for an accident, however, such a possibility is not considered to constitute grounds for not supporting the current subdivision proposal.

Consequently a third bus stop should be constructed adjacent to the north east corner of the community lot however this too is subject to sight distance requirements. Each bus stop will include a bus pullover area thereby allowing the stationary bus to be clear of the traffic lane and a LCC standard bus shelter at the Applicant's expense.

As Road1 will be used as a bus route the Applicant will be required to construct the Road 1 culdesac turning radius to a 12.5m standard with 1m shoulders.

## **Pedestrian Pathway**

The planning agreement provides for 2 bus stops on Cameron Road, and a community lot located approximately 400m down Road 1. In order to encourage pedestrian movement within the development and to provide an appealing and safe means to access these pedestrian nodes, Council in accordance with the planning agreement requires the developer to construct a 1.2m wide footpath along the full frontage of Cameron Road as well as the linking path along Road 1 from Cameron Road to the community lot as detailed in Ardill Payne & Partners Drawing LP-B01 dated 29 October 2010 and Ardill Payne & Partners Drawing Number CL1 dated 18 June 2010.

It is not intended for these pathways to be used as cycleways. It is standard practice in rural residential developments for cyclists to use the roadways.

## **Bulk earthworks**

There are three (3) areas in which significant earthworks may be required:

- The first 200m of Road 1.
- Road 2.
- The community lot.

The Applicant would be required to provide a geotechnical report identifying potential problems and engineered solutions.

## **Stormwater Discharge**

In order to work toward the environmental sustainability of our local creek systems while keeping in mind compliance with the Lismore Stormwater Management Plan, the developer is required to discharge the stormwater runoff from the proposed development in a manner which does not exceed the maximum stormwater discharge from the pre-developed site for a 10 year ARI event. The developer's consultant assessed the 5,10,20,50 and 100 ARI storm events and determined that given the small increase in impermeable area when compared to the total area of the development there is a maximum variation in runoff of 3% occurring at the ARI 5 year event. A 3% variation can be accounted for by the use of rainwater tanks increasing the flow path length by use of grassed swales and other Water Sensitive Urban Design principles.

The Applicant proposes to allow 3,000 litres to drain from the onsite rainwater tanks through a small diameter pipe after each rain event. This water will be discharged to a grass swale prior to being uniformly dispersed over the site. This method is acceptable and will achieve the objectives of the Lismore City Council Stormwater Management plan.

## **Overland Flow paths and Flooding**

The application would need to be conditioned that easements in favour of Council are required where the overland flow paths and open channels pass through private property. The easements shall be sized to contain the 1 in 100 year ARI flood flow plus a freeboard of 150mm. This will ensure that the overland flow remains unencumbered thereby retaining maximum efficiency.

## **Sediment and Erosion**

The application proposes to use WSUD principles, thereby achieving the treatment of stormwater and increased times of concentration by using grass swales rather than kerbing and channelling. This technique of conveying water is highly ranked in regard to environmentally sustainable practices when compared to concrete kerb and channel. The down side of this technique is that it is highly prone to erosion during its early life. The Applicant will be conditioned to provide an erosion and sedimentation control plan in which objectives shall be set regarding established grass covering.

## **Emergency Fire Egress**

The Applicant is required to provide an emergency fire egress from the end of Road 1 through to Boat Harbour Road as detailed the McLean's Ridges Rural Residential Development Plan drawing number LP-B01 dated 29 October 2010.

## **Conclusions**

The above matters can be satisfactorily addressed via appropriate conditions on any consent. Based on the above assessment, it is concluded that the road improvement works required that can be directly and solely attributed to the proposed subdivision are the upgrading of Cameron Road along the frontage of the subdivision, and a proportion of the total road width and pavement improvement costs along Cowlong and Boatharbour Road, and a proportion of the intersection improvements at Cameron Rd/Boatharbour and Cowlong Rd/Mcleans Ridges Rd. These attributable costs are considered to have been fairly apportioned in the executed planning agreement.

## **Building Surveyor Comments**

No objections subject to conditions.

## **Ecologist Comment Summary**

### **SEPP No.44 – Koala Habitat Protection**

The subject site is greater than 1 ha in area and therefore a formal Koala Habitat Assessment is required under the SEPP 44 Provisions. A formal Koala Habitat Assessment was conducted for the subject site. The assessment found that Koala habitat trees comprised less than 15% of the species in the upper and lower strata of the tree component of the subject site and that there is not potential and/or core koala habitat on the subject site. Consequently, the report concludes that a Koala Plan of Management was not required as part of the application. The conclusions contained in the Koala Habitat Assessment are appropriate and supported.

### **Draft Lismore Local Environmental Plan (LEP) 2010.**

The Draft LEP contains the following relevant ecological clauses:

#### Cl. 7.8 - Riparian land and Waterways

The provisions in the Clause 7.8 are identical to those of the Water Management Act 2000. It is noted that this proposed development was assessed in accordance with the relevant guidelines for the *Water Management Act, 2000*. In assessing the DA, the matters detailed in Clause 7.8 (3) have been considered. Pursuant to Clause 7.8 (4) the design and location of the proposed development will avoid potential adverse environmental impacts on riparian land and waterways and proposed amelioration works will minimise and mitigate any adverse impacts to a satisfactory extent.

#### Cl. 7.9 - Natural resources sensitivity – biodiversity

There is native vegetation on the subject site and consequently Clause 7.9 is triggered. In assessing the DA, the matters detailed in Clause 7.9 (3a) have been considered. Pursuant to Clause 7.8 (3b) the design and location of the proposed development will avoid potential adverse environmental impacts and proposed amelioration works will minimise and mitigate any adverse impacts to a satisfactory extent.

## **Flora and Fauna Assessment**

On the whole, the description of the study area met NSW State Government guidelines.

### List of threatened species, populations or ecological communities or their habitats known or likely to occur within the locality of the subject site

The desktop assessment for threatened entities met NSW State Government Guidelines. The desktop assessment identified 16 threatened plant species recorded in the locality of the subject site. In addition, the desktop assessment identified 14 threatened animal species, including 2 bat, 3 marsupial and 9 bird species on or near the subject site.

### Comprehensive assessment of the likelihood of threatened species, populations or ecological communities identified as occurring or likely to occur in the locality

On the whole, the Assessment of Likelihood met NSW State Government Guidelines.

### Flora Field Survey Methods

Details of the flora field survey methods were included and were justified in the Flora & Fauna Assessment Report. On the whole, the description of the flora field survey methods met NSW State Government Guidelines.

### Fauna Field Survey Methods

Details of the fauna field survey methods were included but not justified in the Flora & Fauna Assessment Report. However, justification of the fauna field survey methods could be inferred from the discussion of the habitat features on the subject site. On the whole the description of the fauna field survey methods met NSW State Government guidelines and the choice of fauna field was appropriate.

### Fauna assessment and field survey

The Flora & Fauna Assessment Report only contained results of an opportunistic fauna field survey. This survey identified one amphibian, one reptile, 35 bird and three introduced mammal species on the subject site. One threatened bird species (*White-eared Monarch*, *Monarcha leucotis*) was observed. No signs of Koala or Glossy Black-cockatoo activity were recorded.

### Assessment of Significance that includes those threatened items above identified as occurring or likely to occur in the locality

The Assessment of Significance for both flora and fauna met NSW State Government guidelines. On the whole, the conclusions contained in the Assessment of Significance are justified, reasonable and supported for the purposes of this development application.

### Vegetation Removal and Assessment of Significance

The amount of vegetation proposed to be removed was provided in Table 3.5 of the Flora & Fauna Assessment Report. The report outlines that approximately 2000 m<sup>2</sup> (0.2 ha) of degraded Lowland Rainforest EEC is proposed to be removed. However the recommended VMP condition of consent will ensure more than adequate compensatory Lowland Rainforest planting.

### Noxious Weeds and listed Environmental Weeds found to occur on the subject site

The Flora & Fauna Assessment Report outlines that nine of the exotic species declared noxious under the Noxious Weeds Act 1993 in the control area of the Far North Coast County Council (Far North Coast Weeds) were recorded on the subject site. However, a list of Environmental Weeds listed by Far North Coast Weeds was not provided but does not form an essential part of the assessment report.

## External Referrals

### Department of Lands

The development proposal for rural residential subdivision affects Crown Road Reserves administered by the LPMA and as such the Applicant requested owner's consent to lodge the development application. The Dept of lands supported the owner's request to lodge the application and a copy of the Departments letter is on file.

### NSW Police

The development application was referred to NSW Police. They raised no objection to the proposal but provided general comments for consideration. Relevant comments have been incorporated into recommended development consent conditions.

## Integrated Referrals

### NSW Rural Fire Service (RFS)

The development proposal is located on bushfire prone land and required a bush fire authority from the NSW RFS under the provisions of section 100B of the Rural Fires Act, 1997. The NSW RFS granted their bush fire authority concurrence subject to conditions of consent. These conditions are incorporated into recommended development consent conditions.

### NSW Industry & Investment

The development proposal required integrated development concurrence from NSW Industry & Investment as components of the development works associated with rehabilitation of these waterways, specifically the installation of two (2) x five (5) metre wide cattle crossing point's triggers dredge and reclamation approval under s198-202 of the *Fisheries Management Act, 1994*. NSW Industry & Investment granted their General Terms of Approval (CTA) and these conditions are incorporated into recommended development consent conditions.

### NSW Office of Water

The development proposal required integrated development concurrence from NSW Office of Water for 'Development Works' requiring a Controlled Activity Approval under the *Water Management Act (WMA) 2000*. NSW Office of Water granted their General Terms of Approval (CTA) and these conditions are incorporated into the recommended development consent conditions.

## Notification/ Submissions

The application was notified to adjoining and surrounding property owners and advertised in the Northern Rivers Echo in accordance with the provisions of Chapter 10 of the Lismore DCP for the Notification and Advertising of Development Applications.

The subject development application has been advertised twice, the first time being just after the application was lodged. The first exhibition period occurred between Thursday, 18 March until Friday, 9 April 2010. As a result of the notification and advertising, during this exhibition period Council received 349 in total, with approximately 239 submissions in support and 110 submissions in objection to the proposed development.

The application was advertised for a second time because the Applicant proposed an amendment to the allotment layout, in particular the proposed location of the community lot/park and associated 'Planning Agreement'. The second exhibition period which included a letter being sent to all previous persons who made a submission on the application occurred between Thursday, 25 November 2010 to Tuesday, 4 January 2011. As a result of this notification and advertising, during this exhibition period Council received 126 in total, with approximately 118 submissions in support and 8 submissions in objection to the proposed development. The submissions in support of the proposed re-location of the community lot/park and amended 'Planning Agreement' were generally in the format of a pro-former letter.

A copy of the submissions made in relation to the DA and the proposed planning agreement are available in the Councillors room for review by Councillors. A list of the persons who made submissions to the DA and planning agreement is attached to this report for the information of Councillors.

As a result of both notification and advertising periods, Council received a combined total of 475 submissions with approximately 118 submissions in objection and 357 submissions in support of the proposed development. The issues raised both in support and objection to the development proposal are summarised as follows:

Issues raised in **Support** of the development:

- There is a drastic shortage of quality land available in the Lismore area
- Quality rural residential land is very much sought after and will help promote the Lismore City area
- The land the subject of this development is near level land with north east aspect and uninterrupted north/easterly views.  
*Planner's Comment:* There is a mixture of near level and steep land across the site. The majority of the proposed dwelling sites do have a north east aspect.
- The proposed development will create jobs within Lismore City council area.  
*Planner's Comment:* The proposed development will create employment during the construction stage of the subdivision as well as during the construction phase of the subsequent dwellings.
- This is good land to develop as there is already developed rural residential land within the McLeans Ridges area/locality.
- The development satisfies to agreed 'Planning Agreement' between Council and developers and this development will create the release of desperately needed contribution funds to go towards the local road network.
- There has been more community consultation in relation to this development than any other development.
- This land is not good farming land and makes sense to be used for residential development.
- This land is needed to cater for the increasing Australian and Lismore population.
- This development provides a range of land options.
- There is a shortage of rural residential blocks available on the market.
- LCC needs to adopt a commercial attitude to land use development & promotion of that by LCC.
- The release of rural residential land and living will assist to attract people to the LCC area.
- The new families the subdivision will bring into Lismore will have a positive economic impact upon the community.

The following provides a summary of the main issues raised in **Objection** to the development:

| Submission issue  | Planning comment   |
|---|--|
| A large number of the McLeans Ridges residents did not support the rezoning and therefore the development proposal should not be supported. | There were 201 submissions in objection to the proposed rezoning/LEP amendment and the issues raised in those submissions are very similar to the reasons in objection to the proposed development application. Council's rezoning/LEP amendment addressed the submission issues and Council reviewed those concerns before deciding to support the rezoning/LEP amendment and planning agreement. |

| Submission issue  | Planning comment   |
|---|--|
|   | It is not valid reason to support or refuse a development application based solely upon the number of public submissions, each application must be determined based upon it's own merit.   |
| Proposed subdivision will have a negative impact upon the rural character of the area and existing rural amenity of Mcleans Ridges. | This issue was raised within many of the submissions in objection to the development and as a key issue for consideration under likely environmental impacts this issue is addressed in detail within the 'impacts of the development' section of this report. In brief, it is recognised that any development on the subject land will have some impact upon the existing character, rural amenity and environment. However it is considered that the proposed development is consistent in character and amenity to other rural residential development such as the Floreat Park, Rosewood & Satinwood rural residential estates and that the subdivision design (layout & lot sizes), rehabilitation and landscaping works will ensure that there is minimal impact upon the existing character, rural amenity and environment.   |
| There is inadequate social and physical infrastructure for further development within McLeans Ridges                                | <p>This issue was raised within many of the submissions in objection to the development and as a key issue for consideration under likely environmental impacts this issue is addressed in more detail within the 'Impact of Development' section of this report. In brief it is recognised that all rural residential estates have limited social and physical infrastructure however it is considered that this development does provide via the 'planning agreement' the following positive social and physical infrastructure:</p> <ul style="list-style-type: none"> <li>• \$632 per each allotment to be paid toward the upgrading of McLeans Ridges Hall</li> <li>• The establishment of a pedestrian pathway along Cameron Road and Road 1 leading to the community park lot.</li> </ul> <p>The establishment and embellishment of a community park.</p>   |
| Loss of agricultural land and potential negative land use conflict/impact on the McLeans Ridges rural farming community.            | <p>The information submitted with the re-zoning/LEP amendment contained a Social Impact Assessment (SIA) report. This report and the proposed development application was assessed by Council's Social Planner and is addressed under the 'Internal Referral' comments section of this report. In regards to the subject land and the impacts upon the rural farming community the proposed re-zoning/LEP amendment was referred to the Department of Primary Industries (DPI). The Department provided comments on the proposed re-zoning/LEP amendment and advised the subject land is not classified as <i>State or Regionally Significant Farmland in the Northern Rivers Farmland Protection Project. They are mapped as Class 4 agricultural lands (suitable primarily for grazing). The DPI accepts that some loss of agricultural land will occur due to population and development pressure and this is acceptable provided development is orderly, carried out in accordance with an agreed strategy and that adverse impacts on agricultural activities is minimised. In terms of land use conflict, the DPI has recently released a publication "Living and Working in Rural Areas: A handbook for managing land use conflict on the NSW North Coast". The DPI notes that Council has a comprehensive DCP on buffers and acknowledges that proposed dwelling envelopes will be located 30m to 75m from grazing land and over 600m from the nearest horticultural operation.</i></p> <p>Council's Environmental Health Officer has also assessed the potential for land use conflicts and this assessment accords with that of the DPI in Council agrees that the development site is predominately surrounded by agricultural lands primarily used for grazing purposes. Council's DCP Part A - Chapter 11 provides guidance for buffers between grazing and residential development being a 30 metre setback with a minimum 5 metre planted buffer along the boundaries. In relation to watercourses the DCP nominates a minimum buffer separation distance of 30 m.</p> <p>The proposed building envelopes meet both the 30m buffer to agricultural land and 50m buffer to watercourses. A five metre planted buffer will be required along boundaries, and this will be imposed as a condition of consent for the development approval.</p> |

| Submission issue   | Planning comment   |
|--|--|
|  | In consideration of the above information land use conflict and associated potential negative impact particularly on the rural farming community is unlikely to result from this development.  |
| The proposed development is a ridge top development  | This issue was raised within many of the submissions in objection to the development and as a key issue for consideration in the likely environmental impacts of the development this issue is addressed in detail within the 'Impacts of the Development' section of this report. In brief it is recognised that a large number of the proposed lots are located on a ridge but not a scenic ridgeline. It is acknowledged that any future dwellings will be developed along the ridge and that this would have a significant change to the landscape in this area. The 'Impacts of the Development' section addressing this matter outlines the mitigation measures proposed and imposed to ameliorate the likely visual impacts associated with this development.   |
| The proposed development is incompatible with the existing McLeans Ridges environment and is not compatible in layout and density with the surrounding settlement pattern  | This issue was raised within many of the submissions in objection to the development and as a key issue for consideration under the potential likely environmental impacts associated with this development this issue is addressed in detail within the 'Impacts of the Development' section of this report. In brief, it is considered that the proposed rural residential development is compatible in layout, lot size and density to the adjoining and other rural residential estate developments within the McLeans Ridges surrounding settlement pattern.  |
| There are no public services or community facilities in McLeans Ridges such as shop/s, school, sports and recreation facilities, public transport or infrastructure such as reticulated water. The proposed upgrades to infrastructure are not considered adequate for the increase in population from this development. | This issue was raised within many of the submissions in objection to the development and as a key issue for consideration this issue is addressed in detail within the 'Impacts of the Development' section of this report. It is agreed that McLeans's Ridges does not have any public services or community facilities such as shop/s, school, sports and recreation facilities, public transport or infrastructure such as reticulated water. However it is not Council's intention that McLeans Ridges becomes another rural village/hamlet like Nimbin, Clunes, Dunoon or Eltham. McLeans Ridges is close to the urban centres of Goonellabah and Wollongbar and the City of Lismore and all the services and community facilities it provides. McLeans Ridges is identified as a rural residential area for the purpose of small acreage rural living lifestyle allotments. The proposed up-grades to infrastructure under the Planning Agreement relating to the up-grading of Cameron's Road, pedestrian pathway, bus shelters and establishment of a new community lot/park is considered adequate for the number of lots and increased population resulting from the proposed development. |
| The proposed development has a negative cumulative impact upon the McLeans Ridges community  | As outlined within the report the proposed development will have impacts upon the local road network, natural and built environment. However it is considered that the development also has positive impacts through the negotiated 'Planning Agreement' such as the up-grading of Cameron's Road, payment of monies for the up-grading of Cowlong and Boatharbour Road and the McLean's Ridges public hall, new bus shelters, pedestrian pathway, community park, re-vegetation and landscaping works. The proposed subdivision design and these infrastructure works will assist to ensure that the proposed development does not have any negative cumulative impact upon the McLean's Ridges community.  |
| The proposed community lot/park is located on sloping land and does not meet adequate recreational and community facilities.   | The proposed community lot is located on sloping land however as part of the amended 'Planning Agreement' the Applicant has agreed to complete earthworks, retaining walls, topdressing and grassing on the Community Lot to achieve an area of 3,600m <sup>2</sup> ; provide a graded, grassed car parking verge for a minimum of six (6) car bays prior to the Community Lot being dedicated as Public Reserve; provide park embellishments to the value of \$70,000 (indexed to CPI) including a picnic shelter, slab floor, tables, seating, bin, swing, tank and water tap and landscape trees.   |

| Submission issue  | Planning comment  |
|---|---|
|   | <p>These works will ensure that the community lot/park incorporates a flat recreation area and other embellishments to ensure the community lot/park does provide what is considered to be adequate recreational and community facilities for this particular rural residential development.</p>  |
| <p>Concern that the proposed community lot will be significantly publicly funded by LCC residents</p>   | <p>As outlined above under the amended 'Planning Agreement' the Applicant has agreed to fully fund the construction of the community lot/park and therefore the proposed community lot will not be publicly funded by LCC residents. It is recognised that once the community park has been built by the Applicant the on-going maintenance of the park will become the responsibility of LCC. The park will provide a positive social benefit to McLean's Ridges community residents and Council does have the responsibility of maintaining all such community park assets.</p>   |
| <p>The Social Impact Assessment used incorrect data and is not correct</p>  | <p>As outlined in the 'Internal Referrals' section of this report Council's Social Planner outlines that the Social Impact Assessment (SIA) report submitted with the application is dated 2007 and is the same SIA that was completed for the LEP amendment relating to this land. The Social Planner comments go on to state that the community expressed concerns regarding the SIA, particularly with respect to the demographic analysis based on the Richmond Hill Collection District data from the ABS. The community felt that this was not reflective of the makeup of their particular community (which borders 3 collection districts). However Council's Social Planner does not support this assertion as the two populations share many similar demographic characteristics.</p>   |
| <p>The Lismore Rural Housing Strategy identifies the McLeans Ridges area as an investigation area for further rural settlement. The local community did not support the proposed re-zoning/amendment to the Lismore LEP and there is evidence that the local community does not support this DA. Inconsistency of the proposed development with the Lismore Rural Housing Strategy and other state planning rural settlement documents.</p> | <p>It is highlighted throughout this report that the Lismore Rural Housing Strategy (RHS) 2002 document did highlight the McLean's Ridges general locality as an investigation area for further rural residential settlement. It is also recognised that Council received a large number of submissions in objection to the proposed re-zoning/amendment to the Lismore LEP however despite that objection the proposed re-zoning/amendment to the Lismore LEP was approved by Council. There has also been a number of submissions in objection to the development application and it is relevant that Council consider these submissions within the assessment of the development application.</p> <p>In regard to the Lismore RHS and other relevant state planning rural settlement documents it is important to note that this Council report focuses on the proposed development application and not strategic planning documents or state planning rural settlement documents that would be particularly applicable for consideration at the time of the proposed re-zoning/amendment to the Lismore LEP.</p> <p>In this regard it is relevant to note that the re-zoning/amendment to the Lismore LEP Council report did address the Lismore RHS and in particular the concerns raised in public submissions that the proposed subdivision incorporates direct access to Boatharbour, Cameron and Cowlong Roads and that such access should be precluded and the number of new road connections minimised. The LEP amendment Council report offered the following comments on this issue and the Lismore RHS in general <i>"restriction on direct access to roads that have a through traffic function is a principle that is generally regarded as desirable in most subdivision designs. Initial concept plans lodged by the consultants demonstrated that this requirement could be complied with by providing combined accesses parallel to Cameron Road for those lots with direct road frontage. This produced an unsatisfactory design outcome both from an aesthetic and engineering perspective. The RHS is not an environmental planning instrument and the general notes contained within it provide a guideline only for developers and Council. Council has discretion to vary such requirements particularly where it can be demonstrated that a better design outcome can be achieved through an alternative approach. Negotiations between the consultants and Council staff resulted in a design that incorporated an additional one metre seal and formation width in Cameron Road.</i></p> |

| Submission issue  | Planning comment   |
|---|--|
|   | <p><i>While the revised design allows some direct accesses to Cameron Road, these are minimised through a requirement for shared driveways where practicable. Potential traffic conflicts have been addressed through the widening of Cameron Road and the proposed vertical and horizontal realignment of the road. It is envisaged that the function of Cameron Road will ultimately change from a rural through road to a rural residential road and this will provide an opportunity for a reduction of the speed limit on that road".</i></p> <p>The above comments are relevant and supported as they address the issue of inconsistency and relevance of the Lismore RHS in regard to the assessment of this development application.</p> |
| <p>The existing McLeans Ridges hall is inadequate</p>   | <p>This concern and comment is noted but not directly relevant to the development application. It is recognised by Council that the McLeans Ridges hall does have an important social infrastructure role for the residents of McLeans Ridges. This was also recognised by the Applicant and that is why the Applicant agreed to a development requirement within the 'Planning Agreement' that a payment of \$632 is made per lot towards the cost of upgrading of McLeans Ridges Hall.</p>   |
| <p>The proposed subdivision is not promoting affordable housing</p>   | <p>This concern is noted but it is not relevant to this development application as the proposed development is for subdivision and does not seek to develop land for the purpose of affordable rental housing. There is a specific State Environmental Planning Policy (SEPP) known as SEPP (Affordable Rental Housing) 2009 which relates to development applications for affordable rental housing but is not relevant to this rural residential subdivision development application.</p>  |
| <p>The proposed development will be a burden on tax payers.</p>   | <p>This concern is noted but it is unsupported by any factual evidence and is foreseen as a subjective personal comment. It is worth noting that the commitments within the 'Planning Agreement' such as the payment of contributions for road upgrading and community hall together with the construction of a new community park exceeds the financial commitments that would be applied to the development proposal under the Lismore S.94 Contributions Plan.</p>  |
| <p>The existing Crown Road provides legal access to Lot 1 DP 441201 and concern is raised that the proposed closure of the Crown Road will create a land locked parcel of land.</p> | <p>The existing Crown Road over Lot 123 provides legal access to Lot 1 DP 441201. However Council's development engineer notes that practical access to lot 1 DP441201 is through an adjoining property. To ensure Lot 1 DP 441201 does not become a land locked parcel of land the proposed development outlines on the subdivision plan a legal access via an unconstructed road reserve which is located between proposed lots 5 and 6 and intersects with Road 1. The recommendation contains a condition of consent relating to this issue.</p>   |
| <p>The width and condition of Cameron Road is not suitable to cater for the additional traffic generated by this development</p>  | <p>Council's development engineer has advised that the Applicant is required to reconstruct Cameron Road to a 7 metre wide bitumen sealed pavement standard for the section that dissects the development. The reconstructed width of Cameron Road is considered suitable for the additional traffic generated by this development.</p>  |
| <p>The intersections around this development do not operate well, are unsafe for the additional traffic generated by this development.</p>  | <p>Council's development engineer acknowledges that this issue exists and was highlighted in an independent engineering assessment report prepared by Steve McElroy that reviewed Cameron, Boatharbour and Cowlong Roads. It is the Council's responsibility to investigate further any intersection inadequacy outlined within the independent engineering assessment report and assess the construction priority as part of Council's budgetary road works programme process. The road works programme process is independent of whether the development proceeds or not.</p>  |
| <p>The proposed development will increase traffic beyond the local road system capabilities?</p>  | <p>Council's development engineer has advised that in the year 2030 it is estimated that the combined (existing + development + growth) peak hour traffic shall be:</p> <p>Boatharbour Road – 149 vehicles per hour (vph)<br/> Cameron Road – 133 vph<br/> Cowlong Road – 157vph</p>   |

| Submission issue   | Planning comment   |
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|  | Dual lane Rural Collector roads have the peak hour capacity of 900 vehicles an hour and possibly more depending on the acceptable level of service. These roads will operate well below the best Level of Service which is 540 vph. The independent engineering assessment report has revealed that Cameron Road currently operates under free flow conditions and will continue to do so in the foreseeable future regardless of whether the rural residential subdivision at McLean's Ridges is developed.   |
| The proposed development creates too many driveways off Cameron Road. These driveways are too steep and unsafe   | Council's development engineer has advised that the design speed for Cameron Road will be set at 60kph in accordance with the LCC Development Control Part A chapter 6. Advice from the Traffic Advisory Committee also confirms this requirement. Each lot has a 70m - 80m frontage (approximately) which is considered satisfactory for a 60 kph speed zone. The proposed speed zone and driveway construction is considered satisfactory and safe for the number off proposed driveways within the subdivision and number of existing driveways along Cameron Road.   |
| The existing roads don't have good or necessary sight distances  | Council's development engineer has advised that in particular areas and intersections associated with this development proposal there are sight distance issues of concern. However it should be noted that this problem exists whether or not the development proceeds. These issues are to be considered in conjunction with council's annual budgetary process  |
| This development will have a negative impact upon the Alphadale / Bruxner Highway intersection   | Council's development engineer has advised that the development is approximately 16 km from Lismore via the Bruxner Highway and approximately 13 km from Lismore via Boatharbour Road and Bangalow Road. Traffic generated by the development is just as likely to use either route. It is estimated that the peak hour traffic flow on Cameron Road will increase from 133 vph (estimated in the year 2030) to 157 vph with the inclusion of the development traffic. The intersection currently operates at a reduced level of service during peak hour due to the lack of suitable gaps between vehicles on the Bruxner Highway and this not likely to change until the intersection is upgraded sometime in the future.  |
| The proposed development does not provide for pedestrians & cyclists   | The proposed development does provide for pedestrians in that the Applicant is required under the planning agreement to provide a 1.2 m wide pedestrian pathway on Cameron Road where it fronts the development and from Cameron road to the community lot. The pathway is intended for pedestrians only as the Council's DCP recommends in a rural residential development environment that a cyclist can use the road pavement.  |
| The proposed subdivision would have an impact upon flood prone Cowlong & Pearson Roads by causing extensive destruction of the road surface, edges and shoulders                   | Council's development engineer has advised that the Applicant is providing monetary contributions to the upgrade of Boatharbour Road Cowlong Road which is available to Council to address this issue and upgrade the road pavements. It is also noted that none of the roads the subject of the development are flood prone.  |
| The intersections at Alphadale, McLeans Ridges and Cowlong Rd, Cameron & Boatharbour Roads are known traffic accident sites and this development does not propose to up-grade them | Council's development engineer has advised that the Alphadale intersection is an RTA intersection and will be considered as part of their state-wide assessments. The Applicant is providing monetary contributions to the upgrade of Boatharbour Road and Cowlong Road. These funds will be allocated to various locations on these roads as determined by council.   |
| Potential contamination and cumulative impact of on-site sewage treatment on the Wilsons River catchment and groundwater   | The subject land is located within the Wilsons River (Lismore) catchment area. McLean's Ridges is not on reticulated sewerage and the proposed future development on each lot will use on-site sewage as the management treatment method for the associated dwellings. This issue was addressed by Council's Environmental Health Officer who has indicated that the potential for a cumulative impact of on-site sewage treatment on the Wilsons River catchment and groundwater is minimal because the groundwater within the development site is at a depth of approximately 26m below ground surface levels and the subdivision design has incorporated appropriate buffers (100m to watercourses and 40m to gullies) for all of the on-site sewage management systems along with the ability due to the size of each lot to |

| Submission issue   | Planning comment   |
|--|--|
|  | provide on-site sewage management secondary treatment. For the above reasons on-site sewage treatment should not pose a significant risk of harm to the environment or to the urban water supply being pumped from the Wilsons River   |
| Inadequate soil surveys and inappropriate standards used within SEPP No.55 and On-site Sewage Wastewater Management report         | The development application was accompanied by a SEPP No.55 and On-site Sewage Wastewater Management report and a preliminary contaminated land assessment report. These reports have been assessed by Council's Environmental Health Officer who has not indicated that these reports contained inadequate soil surveys and inappropriate standards. For further detail on the assessment of these matters please refer to the 'internal referrals' section of this report.   |
| There are inadequate land use buffers to adjoining agricultural land   | It is acknowledged that the subject land is predominately surrounded by agricultural lands with the main land use activity being cattle grazing. Council's DCP Part A – Chapter 11 provides guidance on appropriate buffers and stipulates a minimum 30m setback between grazing and residential development, with a minimum five (5) metre planted buffer along boundaries. In relation to watercourses, a distance of 50m is required in unsewered areas between residential dwellings and watercourses. Following an assessment of the proposed subdivision proposal it has been demonstrated that the proposed building envelopes meet both the 30m buffer to agricultural land and 50m buffer to watercourses. Accordingly land use conflict is unlikely to result from this development and should not pose any restrictions to the development.   |
| Inadequate ecological assessment as the Flora & Fauna Assessment report does not identify fauna on the subject site                | After lodgement to Council of the development application concerns were raised about the adequacy of the submitted Flora & Fauna assessment report. The Applicant submitted an amended flora and fauna assessment (Colvin, 2010) which was reviewed by Council's Ecologist. The amended report was considered satisfactory for the purposes of the flora and fauna assessment and the recommendation incorporates ecological conditions of consent which will assist to provide habitat and protect flora and fauna located on the subject site.   |
| There are inadequate landscape/riparian buffer zones to protect and ensure long term survival of 'nationally threatened plants'.   | Following an flora assessment of the subdivision proposal Council's ecologist has advised that the proposed 20 m radius buffer zones detailed in the Environmental Management Plan are of a size that is accepted as suitable for the purpose of protecting individual plant specimens.  |
| Inadequate riparian corridor (buffer zones) to protect watercourses  | Following an ecological assessment of the subdivision proposal in relation to buffer zones Council's ecologist has advised that the width of proposed buffer zones around watercourses detailed in the Applicant's Environmental Management Plan (EMP) did not meet NSW State Government guidelines. There is adequate area within the subject allotments to meet buffer zone requirements and therefore it is recommended as a condition of consent that a Vegetation Management Plan (VMP) is submitted to Council, a part of that VMP will address the establishment of riparian corridor buffer zones around watercourses that meet NSW State Government guidelines.   |
| Inadequate landscape and regeneration plans and maintenance and monitoring period for landscape and regeneration plans inadequate. | <p>Following an ecological assessment of the subdivision proposal in relation to regeneration plans and maintenance and monitoring period for landscape and regeneration plans Council's ecologist has advised that the landscape and regeneration plans detailed in the Applicant's Environmental Management Plan did not meet the new Lismore City Council guidelines for preparation of vegetation management plans. Therefore the development of a comprehensive Vegetation Management Plan that meets Lismore City Council guidelines has been recommended as a Condition of Consent.</p> <p>A five (5) year maintenance period is generally recommended, however, a three (3) year maintenance period was agreed to as part of Cameron Road Planning Agreement (Clause 9). Variation to the maintenance period agreed to in this clause would require renegotiation and an amendment to the above agreement.</p> |

| Submission issue   | Planning comment   |
|--|--|
| No vegetation management plan for the Cameron Road realignment.  | Following an ecological assessment of the landscape and regeneration plans detailed in the Environmental Management Plan (EMP) by Council's Ecologist it was noted that the submitted EMP did not include a Vegetation Management Plan for the Cameron Road realignment. The inclusion of landscaping on the Cameron Road reserve as part of the Vegetation Management Plan and the protection of native plants during works has been recommended as a Condition of Consent.   |
| The Flora & Fauna Assessment report does not adequately take into consideration the impact of development on the local koala population, habitat replacement & koala movement. | <p>Following an ecological assessment of the subdivision proposal in relation to buffer zones Council's ecologist has advised that the original flora and fauna assessments conducted by PLACE Environmental did not adequately address the potential impact of the development on the local koala population. As part of the Applicant's updated flora and fauna assessment (Colvin, 2010) a survey of koala food trees was conducted and the survey found no traces of koala on the subject site.</p> <p>Pursuant to SEPP No.44, a formal Koala Habitat Assessment was conducted for the subject site. The assessment found that Koala habitat trees comprised less than 15% of the species in the upper and lower strata of the tree component of the subject site and that there is no potential and/or core koala habitat on the subject site. Consequently, the report concluded that a Koala Plan of Management was not required as part of the DA. The conclusions contained in the Koala Habitat assessment were appropriate for the site and supported by Council's Ecologist.</p> |
| The proposed development is likely to cause 'environmental damage' and have a negative environmental impact upon the McLeans Ridges locality.                                  | Following an ecological assessment of the subdivision proposal, Council's ecologist has advised that the proposed development is likely to cause environmental damage in the short term, particularly during the construction phase of the subdivision. However, the recommend conditions of consent have been designed to ensure there is are no long term negative environmental impacts from the subdivision proposal. In fact with the works proposed under the 'Planning Agreement' and via conditions of consent it is considered that the proposed development will generate positive environmental outcomes in the medium to long term.  |
| The proposed development will have an impact upon domestic pets and/or wildlife.   | Following an ecological assessment of the subdivision proposal, Council's ecologist has advised that the proposed development may have an impact on wildlife. However the recommend conditions of consent have been designed to generate positive environmental outcomes (e.g. the creation of wildlife habitat) in the medium to long term.   |

## Consideration

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

### Lismore LEP 2000

The proposed development is permissible as subdivision within the 1(a) General Rural zone under the provisions of the Lismore LEP 2000.

#### 1. Advertised development (cl. 10 & 14)

In accordance with the provisions of Clause 10 & 14 the Development Application was publicly advertised from 18th March to 9th April 2010. Council received 350 submissions of which approximately 239 were in support and 111 were in objection to the proposal.

Following amendments to the Planning Agreement and subdivision layout regarding the Community Park the development application was placed back on public exhibition. The proposed amended Planning Agreement and Development Application was placed on public exhibition from 25th November to 4th January 2011. Council received 125 submissions of which approximately 118 were in support and 7 were in objection to the amended Planning Agreement and amended Development Application subdivision layout.

**2. Subdivision of land generally (cl 11)**

The proposed subdivision requires development consent from Council. The application seeks consent to subdivide the land and is made in accordance with Clause 11.

**3. Buffer zones to avoid potential land use conflicts (cl 20)**

In accordance with this clause the proposed development has demonstrated it is compatible with specified land uses in the locality and with surrounding established development.

**4. Additional development on certain land (cl 28)**

This clause provides that despite any other provision of the plan, a person may with consent, carry out development on land specified in Column 1 of Schedule 4 if the development is specified in Column 2 of that Schedule opposite the land, subject to compliance with the development standards or other conditions (if any) specified in Column 3 of that Schedule opposite the land.

As detailed in background section to this report, as a consequence of Amendment No. 20 to the Lismore LEP 2000, Schedule 4 permits the rural residential subdivision of the 8 lots that are subject of this application into a maximum of 62 rural residential lots, 2 residue lots and 1 community/public reserve lot.

**5. Zone No 1(a) (General Rural Zone) (cl 30)**

The subject land is zoned 1(a)(General Rural) under the provisions of Lismore LEP 2000. The proposed subdivision has been designed such that it is compatible with the character and amenity of the adjacent rural areas and is cognisant of the environmental constraints and opportunities of the site and immediate locality.

**6. Subdivision and development in rural zones (cl 36)**

The minimum 40ha subdivision standard for land zoned 1(a) has no specific application to this proposal as a consequence of Clause 28 and the permitted development listed Schedule 4.

**7. Development on ridgetops in rural areas (cl 41)**

This clause primarily relates to the erection of structures on a ridgeline that would be visible from any public road. It is recognised that in approving this application will permit the future erection of dwellings and associated outbuildings and structures (subject to separate development applications) on land that constitutes a ridgeline. The visual impact issue associated with development on this site was addressed at the time of the LEP amendment and is addressed in the 'Impacts of the Development' section of this report.

## Draft LEP 2010

The application has been assessed against the relevant numeric controls in Draft LEP 2010 as indicated in the following compliance table. Additional more detailed comments with regard to the major issues are provided after the table.

## Compliance Table

| <b>STATUTORY CONTROL – Draft Lismore Local Environmental Plan 2010</b> |                                |  |                             |                 |
|--|--------------------------------|--|-----------------------------|-----------------|
| <b>Site Area Total Site Area:<br/>151.486HA</b>                        | <b>Existing LEP</b>            | <b>Proposed LEP</b>  | <b>Control</b>              | <b>Complies</b> |
| <b>Large Lot Residential</b>   |                                |  |                             |                 |
| Minimum Lot Size (Cl. 4.1)   | 1(a) General Rural Zone – 40ha | R5 – Large Lot Residential Proposed Subdivision Lot Sizes: 3072m <sup>2</sup> to 102,421m <sup>2</sup> . | Proposed 3000m <sup>2</sup> | YES             |

The proposed development is permissible as subdivision within the R5 – Large Lot Residential zone under the provisions of the Draft Lismore LEP 2010.

## Part 7 Additional Local Provisions

**1. Development within urban water supply catchments (cl 7.6)**

The subject site is within the Wilson River water supply catchment and consequently Clause 7.6 is triggered. In assessing the application the matters detailed in Clause 7.6 (3) relating to surface water flow, soil erosion and surface water quality (specifically, the effect of sediment deposition on water quality) were taken into consideration. Pursuant to Clause 7.6 (4) the design of the proposed development will have minimal impact on surface water quality and quantity, includes appropriate controls to avoid any increase in the sediment content of surface water flows and will not adversely affect the supply of surface water to the urban water supply.

**2. Riparian land and Waterways (cl 7.8)**

The provisions in the Clause 7.8 are identical to those of the Water Management Act 2000. It is noted that this proposed development was assessed in accordance with the relevant guidelines for the WM Act 2000. The matters detailed in Clause 7.8 (3) were taken into consideration during the assessment of the application. Pursuant to Clause 7.8 (4) the design and location of the proposed development will avoid potential adverse environmental impacts on riparian land and waterways and proposed amelioration works will minimise and mitigate any adverse impacts to a satisfactory extent.

**3. Natural resources sensitivity – biodiversity (cl 7.9)**

There is native vegetation on the subject site and consequently Clause 7.9 is triggered. The matters detailed in Clause 7.9 (3a) were taken into consideration during the assessment of the application. Pursuant to Clause 7.8 (3b) the design and location of the proposed development will avoid potential adverse environmental impacts and proposed amelioration works will minimise and mitigate any adverse impacts to a satisfactory extent.

**SEPP 44 – Koala Habitat Protection**

The subject site is greater than 1 ha in area, therefore a formal Koala Habitat Assessment is required under the provisions of SEPP 44 – Koala Habitat Protection.

A formal Koala Habitat Assessment was conducted for the subject site. The assessment found that Koala habitat trees comprised less than 15% of the species in the upper and lower strata of the tree component of the subject site and that there is not potential and/or core koala habitat on the subject site. Consequently, the report concludes that a Koala Plan of Management was not required to be submitted with the application. Council's ecologist supports the findings of the submitted Koala Habitat Assessment and does believe the proposed development would have a significant impact upon the existing koala habitat on this site.

## SEPP No.55 & Contaminated Land Management Issues

A preliminary contaminated land assessment was undertaken by Environmental Analysis Laboratory, dated June 2006 as part of the rezoning process in response to Council's "Regional Policy for the Management of Contaminated Land".

This report included a history check which revealed the site has been used in the past for minor grazing agriculture or was vacant land. A site-sampling regime was undertaken of surface soils to determine if the site has been contaminated from heavy metals, organochlorine and organophosphate pesticides.

The results of the sampling were compared with Column 1 of the NSW EPA (1998) "Contaminated Sites – Guidelines for the NSW Auditor Scheme". From these results it is considered that the site can be classified as uncontaminated for the proposed future land usage of rural residential subdivision. However, the report did not identify former horticultural land and a cattle yard area. These two areas have a high potential for residual soil contamination from past activities and were identified as areas requiring further investigation for any sub-division of the land.

Consequently, a detailed contaminated site investigation was undertaken by Ardill Payne & Partners, dated February 2010 on the land identified as a former banana cultivation area and cattle crush. In the past these activities typically used pesticides containing heavy metals such as arsenic and lead and also of an organochlorine base (eg DDT).

A systematic sampling pattern was undertaken for the banana cultivation area as outlined in NSW EPA Guidelines. For the cattle yard, a single sample was taken and considered appropriate as the site does not have a history of dipping or other uses, and would not be expected to contain high levels of heavy metals.

The samples were tested for the presence of heavy metals and organochlorines. The results of the soil analysis was compared against NSW DEC guidelines for urban development being "Residential with gardens and accessible soil", and "Parks, recreational open space".

The soil analysis results indicate that contaminant levels for chemicals of concern are below health based investigation levels for "Residential with gardens and accessible soil", and "Parks, recreational open space", as required by the EPA guidelines. Organochlorine pesticide compounds were not detected in the samples. All heavy metals were below the soil investigation criteria for Residential and Parks, except for manganese and nickel. These metals are typically found in the volcanic rock of the regional soil landscape and are commonly found in elevated concentrations in the red krasnozems soils, such as those present on the site. Consequently, these metals are not considered to be above normal background levels for the soil type here.

From this conclusion, further investigation or site remediation is not required for the proposed development, including the former banana cultivation area and cattle yard. From the information presented Council's Environmental Officer has concluded that the site does not represent a significant risk of harm to users of the development. As such, a more detailed investigation is not required and there are no conditions relating to contamination which should be imposed on this development.

## SEPP No.1 – Development Standards

On the basis that the development permitted by Schedule 4 (pursuant to Clause 28) expressly references and permits the creation of 2 residue lots, therefore the Applicant does not require a SEPP No.1 objection to be provided to argue for non-compliance with the 40ha minimum subdivision standard for 1(a) zoned land (per Clause 36 of Lismore LEP 2000).

## SEPP (Rural Lands) 2008

The relevant sections of this SEPP are contained within Part 3, Rural Subdivisions & Dwellings, in particular Clause 8 – *Rural Subdivision Principles* and Clause 10 – *Matters to be considered in determining development applications for rural subdivisions or rural dwellings*.

The principles and matters for consideration relate to the suitability of the land in terms of its natural and physical constraints and possible rural land use conflicts, particularly between residential land uses and other rural land uses.

These matters were matters for consideration within the amendment to LEP 2000 which permits the proposed subdivision. The suitability of the land in terms of its natural and physical constraints and possible rural land use conflicts, particularly between residential land uses and other rural land uses formed part of the considerations of the LEP amendment report and the development application.

It is concluded that the application has demonstrated the suitability of the land in terms of its natural and physical constraints and through the subdivision design and recommended conditions of consent any potential rural land use conflicts, particularly between residential land uses and other rural land uses have been minimised.

## Environmental Planning and Assessment Model Provisions 1980)

Clause 5 of the LLEP adopts specific parts of the Model Provisions. The provisions that are relevant to the proposed development are identified and addressed below:

### **Clause 5 – Consideration of certain applications**

**Clause 5(1)** – *This clause relates to applications on land that is within view of any waterway or adjacent to any main or arterial road, railway, public reserve or land zoned as open space. The consent authority is required to take into consideration the probable aesthetic appearance of the proposed development when viewed from such external places.*

The issue of visual impact is detailed and addressed within this report.

**Clause 5(2)** – *This clause relates to applications that are likely to cause increased vehicular traffic on any road in the locality and provides certain matters that the consent authority must consider relating to the adequacy of vehicular access to and from the site, the sufficiency of on-site parking, any representations made by the RTA and whether appropriate space exists for the loading/unloading and fuelling of vehicles.*

The issue of increased traffic is addressed within this report.

### **Clause 30 – Services**

*This clause provides that the consent authority shall not grant its consent to the carrying out of development unless appropriate facilities exist, and that satisfactory arrangements have been made for water supply, sewage disposal and stormwater drainage.*

The proposed development has demonstrated *satisfactory arrangements have been made for water supply, sewage disposal and stormwater drainage.*

## Regional Environmental Plans (REPs)

The North Coast Regional Environmental 1988 (NCREP) is the only REP applying to the subject land. The following clauses are relevant to the proposed development.

### **Clause 12 – Development control – impact of development on agricultural activities (Part 2, Division 1)**

*This clause provides that Council shall not consent to an application to carry out development on rural land unless it has considered the impact of the proposed development on the use of adjoining or adjacent agricultural land and whether or not the development will cause a loss of prime crop or pasture land.*

The Lismore Rural Housing Strategy identifies the subject site as potential rural residential land whilst LEP Amendment No. 20 permits (subject to development consent from Council) rural residential subdivision.

The subject land contains no State or Regionally significant farmland. The land comprises Class 4 agricultural land which is not prime land. The DPI Agriculture advised in respect of LEP Amendment No. 20 that the proposal “*will result in some loss of agricultural land due to population and development pressure, however this is acceptable provided development is orderly, is carried out in accordance with an agreed strategy and that adverse impacts on agricultural activities are minimised*”.

Appropriate buffer setbacks are provided between proposed dwelling envelopes and adjoining rural uses in accordance with the requirements of Chapter 11 – *Buffer Areas* of the Lismore DCP.

### **Clause 15 – Development control – wetlands or fishery habitats (Part 2, Division 2)**

This clause provides that Council shall not consent to a development application for any purpose within, adjoining or upstream of a river or stream unless it has considered the following specific matters:

- (a) *the need to maintain or improve the quality or quantity of flows of water to the wetland or habitat –*  
Soil and water management techniques and devices are implemented via conditions that will be incorporated into the development that will minimise downstream water quality impacts.
- (b) *the need to conserve the existing amateur and commercial fisheries –*  
There are no amateur or commercial fisheries within close proximity to the site that would be impacted by the proposed development.
- (c) *any loss of habitat which will or is likely to be caused by the carrying out of the development*  
There is not likely to be any loss of habitat and the creek habitat will be substantially improved by the proposed riparian rehabilitation forms part of the conditions of consent.
- (d) *whether an adequate public foreshore reserve is available and whether there is adequate public access to that reserve –*  
There are no public foreshore reserves adjoining or adjacent to the site and as such, this consideration is not application to this application.
- (e) *whether the development would result in pollution of the wetland or estuary and any measures to eliminate pollution –*  
Subject to the implementation of appropriate erosion and sedimentation controls and the proposed stormwater treatment train, the development is not likely to result in any pollution of the environment (particularly the downstream environment).
- (f) *the proximity of aquatic reserves dedicated under the Fisheries Management Act 1994 and the effect the development will have on these reserves –*  
There are no such aquatic reserves within close proximity to the site. This consideration is not applicable to this application.

- (g) *whether the watercourse is an area of protected land as defined in Section 21AB of the Soil Conservation Act 1938 and any measures to prevent soil erosion –*

The watercourse is not known to be within an area of protected land. Appropriate soil erosion measures will be installed and maintained during civil and construction works.

- (h) *the need to ensure that native vegetation surrounding the wetland or fishery habitat area is conserved*

It is unlikely that the proposed development would disturb any wetland or fishery habitat will be disturbed.

- (g) *the recommendations of any environmental audit or water quality study prepared by the Department of Water Resources or the Environment Protection Authority and relating to the river, stream, wetland, area or catchment –*

There are no such audits or studies prepared by DECCW applicable to the subject land or to this application.

It regard to this matter it should also be noted that the proposed development has also been granted 'integrated' development concurrence from the NSW Office of Water for 'works' requiring a Controlled Activity Approval under the Water Management Act (WMA), 2000 and NSW Industry & Investment for dredge and reclamation approval under S198 – 202 of the *Fisheries Management Act, 1994*.

#### **Clause 66 – Development control – adequacy of community and welfare services (Part 5, Division 4 – Community Services)**

*This clause provides that before granting consent to a development application for subdivision for rural residential purposes, Council shall consider the adequacy of community and welfare services available to the land and take into account the results of that consideration.*

A broad range of community and welfare services exist in Lismore and Ballina and to a lesser extent, Alstonville, Goonellabah and Wollongbar.

The Social Impact Assessment (SIA) submitted with the LEP amendment provided an assessment on such services having regard to the demands and loads that would result from the proposed development. Whilst Council's Community Services Officer has outlined that it could be argued that aspects of the methodology used to produce the social impact assessment were not necessarily best practice, it was considered by Council's Community Services Officer that the conclusions and recommendations of the SIA are valid and that the provisions contained within the Planning Agreement assist to provide adequate community and welfare services.

#### **Relevant Lismore City Council Policies**

##### **1.8.2 Access to Battleaxe Type Subdivisions**

Council's Development Engineer has advised that the requirements relating to access to allotments and frontage to a designated public road complies with this policy.

##### **1.8.4 Undergrounding of Electricity Mains & Provision of Street Lighting**

This policy does not apply to rural residential developments however Council's Development Engineer has recommended a condition of consent that the proposed new roads (1,2 & 3) within the development provide undergrounding of electricity mains & street lighting.

##### **1.8.6 Undergrounding of Telephone Plant in Subdivisions**

In accordance with this condition a condition of consent is recommended that the proposed new allotments with direct access onto the new roads (1,2 & 3) within the development provide undergrounding of telephone plant.

##### **5.2.4 Naming of New Roads**

In accordance with this policy should the application be approved the Applicant will be required to make application to Council for the naming of the new roads (1,2 7 3).

## 5.2.21 Erection of Structures & Filling & Excavation – Easements

The proposed development does not require filling and excavation that would cause damage to Council easements, drains, sewer or water mains.

## 5.2.30 Social Impact Assessment

In accordance with this policy the Applicant submitted a Social Impact Assessment report.

## 5.3.2 Planning Agreements Policy

This policy sets out Lismore City Council's policy and procedures relating to 'Planning Agreements'. The 'Planning Agreement' the subject to this land complied with this policy and procedure.

## Lismore Development Control Plan 2007

The application has been assessed against the relevant controls in the Lismore DCP 2007 as indicated in the following compliance table. Additional more detailed comments with regard to the major issues are provided after the table.

### 1. DCP 2007 Compliance Table

| <b>LISMORE DEVELOPMENT CONTROL PLAN</b>                   |                 |   |
|---|-----------------|---|
|   | <b>complies</b> | <b>Comments</b>   |
| <b>Subdivision and infrastructure (Urban subdivision)</b> |                 |   |
| <b>Subdivision and infrastructure (Rural subdivision)</b> |                 |   |
| <b>Rural Village and Rural Residential</b>                |                 |   |
| Design  | Yes             | <p>The subdivision layout is considered to respond well to site characteristics, setting, landmarks and rural views through street and community/open space networks. The subdivision incorporates a high level of internal accessibility for residents of the development between the pedestrian path/cycleway and the community park.</p> <p>The street and lot orientation and lot dimensions facilitate the siting and design of energy efficient dwellings. The lot design &amp; layout provides a variety of lot sizes. The layout retains significant vegetation and habitat areas. The layout enhances personal safety, and minimises potential crime through surveillance by pedestrians and drivers of passing vehicles.</p> <p>The proposed pedestrian network is safe, attractive and efficient, running largely along public spaces fronted by houses.</p> |
| Minimum Allotment Sizes                                   | Yes             | <p>The minimum lot size provisions are not applicable having regard to the provisions of Clause 28 and Schedule 4 (per LEP 2000 Amendment No. 20).</p> <p>However in accordance with this clause each of the proposed lots exceed 2000m<sup>2</sup> (the lots range in size from 3072m<sup>2</sup> to 9.19ha) with an average of more than 5000 m<sup>2</sup> (the average is 10,920m<sup>2</sup>).</p>   |
| Major Movement Networks                                   | Yes             | <p>The road network was approved under the provisions of LEP 2000 Amendment No. 20 and will be constructed and upgraded in accordance with the Planning Agreement. Please refer to the Development Engineer comments regarding the local road and traffic network.</p>  |
| Local Street Network                                      | Yes             | <p>The local road network was approved under the provisions of</p>  |

|                                   |     |  |
|-----------------------------------|-----|--|
|                                   |     | LEP 2000 Amendment No. 20 and will be constructed and upgraded in accordance with the Planning Agreement. Please refer to the Development Engineer comments regarding the local road and traffic network.  |
| Pedestrian and Cyclist Facilities | Yes | There are no specific pedestrian/cyclist development standard requirements within rural residential areas, the DCP states each situation requires an individual response. In this instance the proposed 1.2m wide Pedestrian and Cyclist network was approved under the provisions of LEP 2000 Amendment No. 20 and will be constructed in accordance with the Pedestrian and Cyclist pathway requirements outlined under the Planning Agreement. Please refer to the Development Engineer comments regarding Pedestrian and Cyclist pathway requirements. |
| Public Transport                  | Yes | The proposed development will improve the provision of public transport via the requirement under the provisions of LEP 2000 Amendment No. 20 and the Planning Agreement.  |
| Public Open Space                 | Yes | The proposed development will improve the provision of public open space in the McLeans Ridges area via the provision of a 1.47ha public park (with infrastructure & car parking) under the requirements of the Planning Agreement.  |
| Road Design                       | Yes | The Planning Agreement requires up-grading of Cameron Road and payment of contributions per allotment to improvements within the local road network, in particular the up-grading of Cowlong & Boatharbour Road. Furthermore proposed new road 1, 2 & 3 will be required via conditions of consent to be constructed to Council's road design standards.   |
| Utility Services                  | Yes | The application has demonstrated to Council that the proposed development has been designed and made satisfactory provision under Council's requirements for the provision of on-site sewage management, water, electricity, street lighting and communication services.   |
| Effluent Disposal                 | Yes | The application has demonstrated to Council that the proposed new allotments within the subdivision have adequate size, soil structure and physical capabilities to enable a wastewater system to be installed on the subject land that conforms to Council's current On-Site Sewage & Wastewater Management Strategy without contaminating surrounding watercourses or groundwater system. Please refer to the Environmental Health Officers comments.  |
| Stormwater Management             | Yes | The application has demonstrated to Council that the proposed subdivision incorporates a stormwater drainage system that is capable of meeting Council's rural residential stormwater drainage design standards. Please refer to the Development Engineer comments regarding stormwater management.  |
| Water Quality Management          | Yes | Council is satisfied that the proposed subdivision can be conditioned to adequately address measures during construction to ensure that the land form is stabilised and erosion is controlled. Please refer to the Development Engineer comments regarding sediment & erosion control/management.  |
| Flooding                          | N/A | The land the subject of the proposed subdivision is not subject to flooding.   |
| Rural Landscape & Landscaping     | Yes | The proposed subdivision and in particular the future building structures on each allotment will have an impact upon the existing rural landscape. However to assist with mitigating any likely visual impacts the Planning Agreement incorporates a requirement to submit to Council a Environmental Rehabilitation Management Plan and landscape plan and for the rehabilitation and landscaping work approved under that  |

|                                     |     |   |
|-------------------------------------|-----|---|
|                                     |     | plan to be carried out. The conditions of consent also require landscaping of the new roads and other sections of the site.   |
| Lot Layout                          | Yes | Whilst it is recognized that the lot layout was approved under the provisions of Lismore LEP Amendment No.20 and the Planning Agreement. The development application has also demonstrated in accordance with this clause that each lot is of a size and dimension such that it permits the future siting and construction of a dwelling and ancillary buildings, on-site sewerage management, rural views, convenient vehicle access and parking.  |
| Bushfire                            | Yes | The subject site does contain bushfire prone land and accordingly was referred to the NSW RFS as an 'integrated' development. The NSW RFS granted concurrence to the development proposal subject to conditions of consent incorporated into the development consent. In accordance with this clause the application has been able to demonstrate the ability for each new dwelling site to provide a safe and secure water supply for fire fighting, each building site location can be positioned within a fuel reduced buffer area. The road layout, design and construction takes account of the needs of emergency vehicles and possible evacuation. |
| Buffers to Avoid Land Use Conflicts |     | Refer to comments on Chapter No.11 – Buffer Areas.  |
| Prime Agricultural Land             | N/A | The subject and adjoining land is not identified as being prime crop or pasture land. The proposed development is located in an area identified as 'potential rural residential' under the Lismore Rural Housing Strategy. The subdivision is also permissible under the provisions of LEP 2000 Amendment No. 20.   |
| Village and Urban Expansion         |     | The proposed development is located in an area identified as 'potential rural residential' under the Lismore Rural Housing Strategy.  |

### **Part A – Chapter 11 – Buffers**

The Applicant submitted the following table addressing the buffer areas stipulated by Chapter 11:

| <b>Buffer to</b>                                    | <b>Buffer distance (m)</b> | <b>Applicable - Yes/No</b> | <b>Complies - Yes/No</b> |
|---|----------------------------|----------------------------|--------------------------|
| Intensive Horticulture                              | 150                        | No                         | Yes                      |
| Intensive horticulture with 30 metre planted buffer | 80                         | No                         | Yes                      |
| Macadamia De-husking Plant                          | 300                        | No                         | Yes                      |
| Piggeries   | 1000                       | No                         | Yes                      |
| Cattle Feed Lots                                    | 1000                       | No                         | Yes                      |
| Dairies (intensive)                                 | 600                        | No                         | Yes                      |
| Poultry Farms                                       | 400                        | No                         | Yes                      |
| Abattoirs   | 1000                       | No                         | Yes                      |
| Grazing Land  | 30                         | Yes                        | Yes                      |
| Cattle Dip Sites                                    | 200                        | No                         | Yes                      |
| Extractive Industries                               | 800                        | No                         | Yes                      |
| Sewerage Treat Plants                               | 400                        | No                         | Yes                      |
| Garbage Tips  | not stated                 | No                         | Yes                      |
| Industrial Development                              | 40                         | No                         | Yes                      |
| Hazardous or offensive industries                   | 1000                       | No                         | Yes                      |
| Crematoriums  | 80                         | No                         | Yes                      |
| Planning for Bushfire Protection                    | by investigation           | Yes                        | Yes                      |

|  |      |     |     |
|--|------|-----|-----|
| Rivers/watercourses - dwelling or effluent disposal area | 50   | Yes | Yes |
| Environmental  | 200  | No  | Yes |
| Railway Lines  | 50   | No  | Yes |
| Power Lines to dwellings                                 | 20   | Yes | Yes |
| Rifle Ranges   | 500  | No  | Yes |
| Airports   | 4000 | No  | Yes |

Council's Environmental Health Officer assessed the proposed development and in regard to *Lismore DCP, Part A, Chapter 11 – Buffers* provided the following comment:

*“The subject land is predominately surrounded by agricultural lands with the main land use activity being cattle grazing. Council’s DCP Part A – Chapter 11 – Buffers provides guidance on appropriate buffers and stipulates a minimum 30m setback between grazing and residential development, with a minimum five (5) metre planted buffer along boundaries. In relation to watercourses, a distance of 50m is required in unsewered areas between residential dwellings and watercourses.*

*The proposed building envelopes meet both the 30m buffer to agricultural land and 50m buffer to watercourses. A five metre planted buffer will be required along boundaries, and this will be imposed as a condition of consent for the development approval.*

*With due consideration to the relevant facts, land use conflict is unlikely to result from this development and should not pose any restrictions to the development”.*

### **Part A – Chapter 13 – Crime Prevention Through Environmental Design**

Crime Prevention is required to be considered under the social and economic impacts and public interest provisions of Section 79C of the Act. The following comments are made with respect to the provisions of Chapter 13 and the Department of Planning’s “*Crime prevention and the assessment of development applications*” (2001) document.

The aims of crime prevention through environmental design are to:

- *Enhance the safety of developments for all users; and*
- *Minimise the opportunities for crime to be committed.*

### **Surveillance**

The subdivision layout has been configured to maximise clear sight-lines between public and private spaces. The proposed open space/community park has a high level of visibility as a consequence of it being situated on the ridge and surrounded by residential allotments.

Both proposed and conditioned requirements around landscaping along all roads the subject of the development will be undertaken to improve the streetscape with species that will not unreasonably interfere with the natural monitoring of public spaces. Where necessary, plants will comprise low level shrubs that will not obstruct sight lines and will not provide concealment areas or predator traps.

Each rural residential lot has direct road frontage. Future dwellings will thus have access and frontage to the roads with a high potential for passive surveillance.

### **Access Control**

The subdivision has been configured so that there are clear distinctions between public and private spaces. Pedestrian routes will be clearly identifiable and will direct and channel people through the estate to both private and public places.

Private and public areas will be clearly identified by signage and/or pavement treatments, landscaping and the like. The community open space park lot will be dedicated to Council. Signage will be displayed where required clearly articulating the restrictions (if any) on the use of that land.

## **Territorial Reinforcement and Space Management**

Public lands (including roads and the community open space lot) will ultimately be owned, managed and maintained by Council. It is reasonable to expect that such areas will be well maintained as is the case with other Council owned and managed land.

As is the case with the existing rural residential areas in McLeans Ridges and Richmond Hill, it is reasonable to expect that future dwellings will be very well maintained by future residents. The residents of these areas have traditionally maintained very high standards and levels of property care which send a positive sense of community care and responsibility.

It is expected that both Council and the local community will maintain a high level of space management with the subdivision (both private lots and public spaces) being well maintained and kept in a neat and tidy manner.

## **'Planning Agreement' and Section 94 Contributions Plan**

The legislative basis for Planning Agreements is to be found in Division 6 (Development Contributions) of Part 4 of the *EP&A Act 1979*. A Planning Agreement is a voluntary agreement between a planning authority and a developer who is seeking a change to an environmental planning instrument (rezoning), or lodging a development application, under which the developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit (or any combination of them) to be used for a public purpose.

The development application is subject to a Planning Agreement entitled the "Cameron Road Planning Agreement" which provides for a combination of monetary contributions and material public benefits which include:

- Contributions towards the upgrading Cowlong and Boatharbour Roads
- Contribution towards upgrading McLeans Ridges hall
- Requirement to undertake environmental rehabilitation works with payment of bond
- Requirements for a bushfire service trail
- Requirements for the provision of a pedestrian footpaths
- Requirements for the provision of bus shelters
- Requirement for upgrading Cameron Road for full frontage of development
- Requirement for establishment of a Community Lot/Park with an area of no less than 14,000m<sup>2</sup>, complete with earthworks, retaining walls, topdressing and grassing on the Community Lot to achieve an area of 3,600m<sup>2</sup>; provision of a graded, grassed car parking verge for a minimum of six (6) car bays and park embellishments to the value of \$70,000 (indexed to CPI) including a picnic shelter, slab floor, tables, seating, bin, swing, tank and water tap and landscape trees.

As a result of Council agreeing to the abovementioned 'Planning Agreement' at the rezoning stage, the Agreement excludes the application of s94 Contributions in respect of the following:

- Rural roads & urban strategic roads
- Other public facilities

The combination of monetary contributions and material public benefits to be received by Council in lieu of S.94 contributions is considered a significant public benefit. In order to try and demonstrate that public benefit the following table outlines the monetary differences between the 'Planning Agreement' and Council's S.94 Contribution Plan.

| S.94 Levies                       |                  | Planning Agreement plus Applicable S.94 Levies |  |
|-----------------------------------|------------------|--|--|
| Type                              | Amount           | Type   | Amount/Other Material Benefit  |
| Recreation & Community Facilities | \$19,236         | Recreation & Community Facilities              | <b>\$19,236</b> plus a <b>\$39,184</b> contribution toward the upgrading of McLeans Ridges Hall.<br><br>PLUS; the establishment of a Community Lot/Park (earthworks, retaining walls, topdressing and grassing on the Community Lot to achieve an area of 3,600m <sup>2</sup> ; provision of a graded, grassed car parking verge for a minimum of six (6) car bays and park embellishments to the value of \$70,000 (indexed to CPI) including a picnic shelter, slab floor, tables, seating, bin, swing, tank and water tap and landscape trees). |
| Street Trees                      | \$12,320         | Street Trees                                   | \$12,320   |
| SES                               | \$3584           | SES  | \$3584   |
| Rural Fire Service Plan           | \$5264           | Rural Fire Service Plan                        | \$5264   |
| Roads                             | \$297,943        | Roads  | \$817,532 in contribution payments towards the upgrading of Cowlong and Boatharbour Roads;<br><br>New pedestrian footpath along Cameron & Road 1.  |
| <b>Total</b>                      | <b>\$338,347</b> |  | <b>\$897,120</b><br><br><i>Note: This figure does not include the cost of the other material public benefits (ie. Community Lot/Park).</i>   |

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

| Levy Area                                  | Account No. | Cost Per ET/m <sup>2</sup>      | Amount Payable  |
|--|-------------|---------------------------------|---|
| <b>Recreation and Community Facilities</b> |             |                                 |   |
| Clunes/Bexhill/Eltham - Local              | 543         | 458 x 56 Lots (refer to Note 2) | \$19,236 (inclusive of 25% discount factor applying to Citywide Facilities) |
| <b>Street Trees</b>                        |             |                                 |   |
| All Areas                                  | 549         | 220 x 56 Lots (refer to Note 2) | \$12,320  |
| <b>Roads Contribution</b>                  |             |                                 |   |
| N/A – Refer to 'Planning Agreement'        | 554         |                                 | 0   |
| <b>SES</b>                                 |             |                                 |   |
| All areas                                  | 584         | 64 x 56 Lots (refer to Note 2)  | \$3,584   |
| <b>Rural Fire Service Plan</b>             |             |                                 |   |
| All areas                                  | 583         | 94 x 56 Lots (refer to Note 2)  | \$5,264   |
| <b>Total</b>                               |             |                                 | <b>\$40,404</b>   |

*Note No.1: The levies imposed above contribute towards the cost of meeting increased demand for public services and amenities that will result from the development, are identified in this Schedule.*

*Note No.2: The proposed development is entitled to six (6) credits and not eight (8) credits as the two residue allotments (Lot 500 & 600) each contain an existing dwelling.*

## Community Lot, Draft Planning Agreement and draft section 94 plan

At its November 2010 meeting Council considered a report on submissions to the draft section 94 Contributions Plan for a neighbourhood park in Cameron Road. The draft section 94 plan was proposed to enable the cost of the park to be distributed equitably across future rural residential development in the McLeans Rural Housing Strategy area.

Council also considered a 'without prejudice' offer made by the developers in June 2010 to provide a park with embellishments at no cost (for land and embellishments) to Council in a location central to the subdivision. If accepted, it would negate the need for a section 94 plan.

In response Council resolved to accept, in principle, the 'without prejudice' offer, prepare a further draft Planning Agreement and exhibit it for at least 28 days contemporaneously with the amended development application. The draft Planning Agreement is provided as an attachment to this report and specifies that:

- (a) the community lot will have an area of no less than 14,000m<sup>2</sup> and will be located as shown on the plan titled Alternate Community Lot Details Drawing No. 6937-CL1 dated 18-6-10;
- (b) the community lot will be dedicated as Public Reserve when 50 lots in the Cameron Road subdivision have been registered;
- (c) earthworks, retaining walls, topdressing and grassing are completed on the Community Lot to achieve an area of 3,600m<sup>2</sup> with a crossfall of 1% prior to the Community Lot being dedicated as Public Reserve;
- (d) a graded, grassed carparking verge for a minimum of six (6) car bays will be provided as shown on the plan titled Alternate Community Lot Details Drawing No. 6937-CL1 dated 18-6-10 prior to the Community Lot being dedicated as Public Reserve;
- (e) park embellishments to the value of \$70,000 (indexed to CPI) are constructed and installed on the Community Lot and include a picnic shelter, slab floor, tables, seating, bin, swing, tank and water tap and landscape trees.

Council also resolved to defer consideration of the draft Section 94 Contributions Plan for a Neighbourhood Park in Cameron Road until the public exhibition period has closed for the draft Planning Agreement and the response is reported to Council.

Pursuant to this resolution, a further draft Planning Agreement was prepared, signed by the landowners, and placed on public exhibition with the amended development application.

## **Draft Planning Agreement Submissions**

As detailed elsewhere in this report, 126 submissions were received in response to the amended development application and draft Planning Agreement. Three (3) of the objections were specifically related to the draft Planning Agreement.

118 of the submissions in support are in the form of a template that states, '*I [the submitter] support the proposed change of moving the community lot*'. Ten (10) of these submissions included additional comments. Two (2) submissions in support are not in a standard format. The table below summarises these submissions and provides a response to the issues.

| Grounds of Submission  | Response   |
|--|--|
| Safe for children, better block of land, more scenic, better situated and safer away from Cameron Road.  | The proposal is likely to be safer for children who live in the subdivision (if approved) to gain access. It is not likely to be safer than the 'original' proposal for those who live outside the subdivision.  |
| Will enable families to use the facilities much sooner than otherwise.   | <p>Under the draft section 94 contributions plan, the park with embellishments may not be completed for some time if development beyond the Cameron Road subdivision (if it is approved) does not occur.</p> <p>The draft Planning Agreement provides that the land will be dedicated as Public Reserve and the embellishments constructed and installed prior to the registration of 50 lots.</p>   |
| Will have a large, level playing area that will facilitate a number of recreational uses.  | The 'original' neighbourhood park proposal would also have provided a large, level playing area. The distinction with the proposal provided for in the draft Planning Agreement is the extent of earthworks required to achieve the level area.  |
| Completed easier and with less cost to council.  | As advised by Council's Finance Manager in the November 2010 report, the proposal in the draft Planning Agreement <i>'...results in the best financial outcome for Council as it eliminates the need for an internal loan and therefore the uncertainty associated with repayments. It does however bring forward ongoing routine park maintenance/ ownership costs.</i>   |
| There is little rationale for a community park in this location, given the size and number of the proposed lots. Will result in disproportionately high costs of mowing and maintenance given its location from other Council assets and potential low use of the site. A contribution to more centrally located community/ sporting facilities would be in the best interests of ratepayers. Parks in places remote from policing services often become a drinking place for youth and vandalism increases costs on ratepayers. | <p>The rationale for a community park was originally outlined in the Social Impact Assessment Report prepared for the rezoning application, which concluded that the contribution to the McLeans Ridges Hall to be made through the planning agreement and the inclusion of the open space for community use are important strategies in providing a focus for community activity and interaction for residents.</p> <p>If the development is approved, section 94 contributions will be levied for the city wide recreation facilities.</p> <p>The location of the park among a residential subdivision is considered to provide the potential for casual surveillance by residents, which will reduce the potential for vandalism and other 'anti-social' behaviour.</p> |
| Council is prepared to isolate the lot from the community in which it is located for simple budgetary convenience. Council's response to repeated calls for Community Facilities in this area to cater for developments already approved, is to move the community lot to a lot that is useless for the wider community, and reduce the proposed facilities to a nominal sum.  | The community lot proposal in the draft Planning Agreement is not as centrally located to the McLeans Ridges community as the 'original' proposal. It is located approximately 250 metres away along a road that should provide safer vehicle access to the park. There is a great deal of uncertainty about the potential for further rural residential subdivision in McLeans Ridges, which means the 'original' park may never have been fully developed without a significant contribution from the wider community. The park, albeit in a location that is less central, will be available to the whole community.  |
| Council had the opportunity to secure an alternative community site well located on Cameron Rd, that will be accessible to the wider community and without the constraints of the lot approved in the rezoning application.  | It is not clear what site this comment is referring to. However, it is noted that the Local Environmental Plan 2000 specifies the land from which the Public Reserve is to be dedicated.   |
| The larger site is preferred due to the rural nature of the development. This  | It is difficult to find standards for parks in rural residential areas. However, Council's Development Control Plan provides guidance for  |

| Grounds of Submission  | Response   |
|--|--|
| was recommended by Council's parks coordinator on 8/7/2008. It would also have protected the large fig trees.  | public open space in Villages (minimum area of 5,000m <sup>2</sup> ) and neighbourhood parks in the urban area (minimum area of 2500m <sup>2</sup> ). The proposed 'Cameron Road' park will have an area of 14,000m <sup>2</sup> with a levelled area of 3,600m <sup>2</sup> .<br><br>The fig trees are able to be protected through requirements imposed as conditions of consent (if the subdivision is approved).   |
| The initial plans for the s94 contributions were to facilitate the highly controversial rezoning and it is the responsibility of this council to honour them.  | The section 94 plan was proposed to allow for the equitable distribution of the costs of a park to be across potential future rural residential development in McLeans Ridges. It was predicated on further rural residential development occurring in McLeans Ridges.   |
| The plan in the rezoning application included a multi-purpose court, BBQ, tables and benches, shelters, a modular unit, double swings, soft fall area as well as 15 large trees. The without prejudice offer only provides embellishments up to \$70,000, which is likely to provide very little.  | The draft Planning Agreement specifies \$70,000 (indexed to CPI) along with the embellishments this is to include. These embellishments will provide sufficient facilities for a picnic area, swing and water. The amount is slightly more than half of the amount of embellishments in the draft section 94 plan (approx \$132,000).<br><br>With respect to the indexation to CPI, it is recommended that this is changed to refer to the Sydney Building Price Index, as this will more accurately reflect price changes in materials over time.<br><br>If Council does approve more rural residential development in the future, the level area can be extended and additional embellishments provided. |
| The community has been misled about what the community lot would offer and the developers are now attempting to reduce their obligations.  | This comment is noted.   |
| The park must include a toilet to make it a usable community asset. Surely the cost of a composting toilet could be met by the developers. Is it too much to ask that an extra s94 contribution of \$269 per lot is paid to provide a toilet? As a parent and a resident of Cameron Road, what happens if the children need a toilet after we have spent 15-20 mins walking to the park? | A toilet is not recommended by Council's Parks Coordinator due to ongoing maintenance costs and the proximity and anticipated low usage due to the close proximity of residents.   |
| Hiding the community lot on a side street will segregate rather than unite the community. Community space should also be highly visible so passing traffic can be alerted to anti-social behaviour.  | It is not considered that the proposed park relocation will be 'hidden'. It will occupy a reasonably prominent site. It will also be highly visible within the subdivision, which will provide the casual surveillance.  |
| A reduction in community benefits should not be considered given the impact on the community if the development proceeds.  | This comment is noted.   |

## Draft Planning Agreement Recommendation

The developers presented the 'without prejudice' offer to Council following their review of the submissions made to the development application. The offer does address some of these concerns, along with those raised in response to the public exhibition of the draft section 94 contributions plan (Jan-Feb 2010), in particular the potential for the Council to become financially responsible for completing the neighbourhood park.

The 'without prejudice' offer, as reflected in the draft Planning Agreement, presents less financial risk to Council than the draft section 94 contributions plan as the land and embellishments would be provided by the developers of the Cameron Road subdivision. The risk in adopting the draft section 94 contributions plan relates to the uncertainty surrounding future rural residential development in McLeans Ridges.

In the event that there is further rural residential development in McLeans Ridges, the proposed park could be extended and, if considered to be in an appropriate location to service development, funded through a section 94 contributions plan or planning agreement.

While the revised park location is not as centrally located to the McLeans Ridges area as that encapsulated in the draft section 94 contributions plan, its location approximately 250 metres away, will still be visible and accessible to the community.

For these reasons, it is recommended that the draft Planning Agreement is adopted with an amendment to clause 13.1.3 to state: *'park embellishments to the value of \$70,000 (indexed to the Sydney Building Price Index (as adjusted to reflect regional variations)) have been constructed and installed on the Community Lot including a picnic shelter, slab floor, tables, seating, bin, swing, tank and water tap and landscape trees to the Council's satisfaction in accordance with a plan approved by the Council.'*

It is also recommended that the draft section 94 contributions plan not proceed.

## 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 built and natural environment                                      | Yes |
| 4.  | Landscaping/Open Space Provision  | Yes |
| 5.  | Traffic generation  | Yes |
| 7.  | Physical relationship to and amenity impacts upon adjoining development (ie. views, privacy 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 |

## Key Potential Impacts include:

### 1. **Roads/Safety and Traffic impacts on the local road network.**

As outlined in the Development Engineers comments the traffic impact of the development has been the source of much debate in Council as well as the local community. Council considered these issues during the LEP amendment process, the Planning Agreement process and most recently when Council engaged an independent consultant to assess the local road network adjoining the proposed development. This recent report highlighted the deficiencies in the current network and remedial action required to improve the safety and the level of service of the network. It is important to outline that the report highlighted the following issues:

- That the existing network is deficient in regard to pavement width and depth.
- All three roads (Cameron, Boatharbour and Cowlong Roads) currently operate under free flow conditions and will continue to do so in the foreseeable future regardless of whether the development proceeds. However due to narrow pavement section and increased volume of traffic from the development, the proposed development may increase the frequency of vehicles passing each other on these roads.
- After a house has been built on each of the proposed new allotments it is possible that there is a requirement for one additional school bus.
- The sight distances at both the Boatharbour and Cowlong Road intersections are extremely poor for the designated speed limits. The report recommended that no further traffic be encouraged to use the intersections until approach speeds are reduced, or sight restrictions eliminated.
- That funding available to Council by means of the planning agreement will be available to assist in addressing the concerns associated with some of the higher risk elements (refer to detail comments in this report).
- Once these elements have been remediated the network could readily absorb the traffic generated by the development.

Whilst there are identified deficiencies within the local road network and concerns around the adequacy of the existing road network it must be acknowledged that those local road network deficiencies exist now. Council's development engineer does not raise concern that the local road network cannot accommodate the additional traffic generated by the development.

In order to address the local road network deficiencies council has negotiated a 'Planning Agreement' which focuses significantly on providing road network improvements and funding as outlined below:

- An upgrade of Cameron Road to a 7m wide bitumen seal on a 9m formation with a 100mm gravel overlay and a 200mm depth cement stabilisation of the existing pavement along the Cameron Road frontage to the development.
- Provision of the following monetary contribution as required by the Planning Agreement:
  - \$10,820 per final lot toward the cost of upgrading of Cowlong Road and
  - \$2,366 per final lot toward the cost of upgrading of Boatharbour Road.

To assist in further road network improvements the conditions of consent contained within the recommendation require the Applicant to construct the three (3) new Cameron Road intersections in accordance with the Northern Rivers Local Government Engineering Development and Design Manual and the Austroads Engineering Manual. The development is also conditioned to provide dedicated right turning lanes at each intersection and each new intersection shall be designed in a manner to aid in reducing the speed environment to 60kph.

The independent Consultant Engineers report on the local road network also identified significant safety issues at the Boatharbour/Cameron Road intersection, the Cowlong/McLean's Ridges Road intersection as well as reduced pavement width, pavement depth and shoulder width at various locations on all three roads. Council's development engineer outlines that these safety issues currently exist as they do for a many number of sites and local road networks throughout the Lismore Council area and that any concern raised about the additional traffic generated from the development and the safety issues at the Boatharbour/Cameron Road and Cowlong/McLean's Ridges Road intersections is alleviated for the following reasons:

- The construction and subsequent occupation of the new subdivision lots will occur over a long time frame which means there is reasonable time frame for Council to respond to the identified safety concerns;
- The significant monetary contribution levied under the 'Planning Agreement' which can be allocated at Council's discretion to address the identified safety concerns on the nominated roads;
- The use of existing S.94 contribution funding and identified rural capital works program funding to address the identified safety concerns.

In regards to pedestrian/cyclist movements the 'Planning Agreement' provides requirements for the provision of a 1.2m wide pedestrian footpath along Cameron Road and for approximately half the length of new Road 1 running from Cameron Road to the Community/Park lot. In regards to a cycle path Council's DCP recommends in a rural residential development environment that a cyclist can use the road. The requirements under the 'Planning Agreement' to upgrade and widen Cameron Road will assist to provide a safer cycling environment than currently exists along Cameron Road

## **2. Impact upon Built Environment (rural amenity, existing landscape and views).**

As part of the LEP amendment and assessment of this development application Council has reviewed the impact upon the built environment (rural amenity, existing landscape and views). A significant number of objections highlighted potential impacts upon built environment in terms of the proposed number, size, location and shape of allotments, the urban nature of the proposal and incompatibility with the existing pattern of settlement, loss of rural character and impacts on lifestyle choice and reason for living at McLeans Ridges. There were also concerns about ribbon development along a ridge system and that the development was of a character which will not blend into the existing rural character and landscape of the McLeans Ridges locality.

As outlined within the LEP amendment Council report the issues of rural amenity, size and design of lots, and impact on landscape and rural character are interrelated and therefore they are addressed collectively within this report.

It is recognised that the transformation from rural land to rural residential land will have impacts on the existing landscape and views which is related to rural amenity. The degree of impact that a development will have will be influenced by:

- a) the nature of the development,
- b) the nature of the topography, and
- c) the distance from which the development is viewed by an observer.

### **a) Nature of the development**

In relation to visual context the subject land comprises a generally north-south ridgeline with Cameron Road effectively running along the crest/middle of the ridgeline. Due to the elevated nature of the land it is reasonably visible in the local catchment, particularly when viewed from the north, west and south.

A number of dwelling houses on rural residential lots already exist along Cameron Road. A proliferation of houses and rural residential lots exist at Richmond Hill (particularly along Richmond Hill Road) to the west.

The future use of the subject and adjoining land for rural residential purposes has been part of Council's long-standing strategic planning. Amendment No. 20 to Lismore LEP 2000 permits the proposed 62 lot rural residential subdivision, each of which will have a dwelling entitlement. The long-standing and current planning provisions permit the subdivision and use of the land for rural residential purposes, including the erection of dwelling houses and associated outbuildings and structures. The resultant visual transformation of the land is therefore consistent with the strategic planning vision for the land.

In an attempt to manage and mitigate impacts on rural amenity and landscape, certain design criteria were explored at the Amendment No. 20 to Lismore LEP 2000 workshop and the following design criteria were subsequently adopted by Council at its meeting of October 9, 2007. These design criteria have been incorporated into the proposed subdivision design as follows:

- lots have minimum frontages of 70m (other than for battle-axe lots or lots situated at the end of cul-de-sacs);
- a 5m wide landscaped "no-build" area is provided along the side boundaries of all lots;
- The Community Park Lot and Cameron Road Reserve is to be landscaped using local rainforest species in accordance with development commitments under the 'Planning Agreement'.

It should also be noted that in addition to the above subdivision design features Council has imposed a proposed condition of consent for a 5m wide landscaped buffer along the street frontages to proposed road 1, 2, or 3 (relating to Lots 2a, 2b, 4-26, 28, 100, 101, 105, 106, 209, 300-302) is to be established, retained and maintained in perpetuity by the owner(s).

The visual impact of future dwellings and outbuildings will be able to be minimised and controlled via consent conditions imposed on individual dwelling house development and/or complying development applications. It is standard practice and a requirement of Lismore DCP 2007 that during the assessment of dwelling house and/or ancillary structure applications that council or the principal certifying authority (PCA) require that:

- buildings have an external appearance (bulk, scale, height& setback) that is consistent and compatible with adjoining development;
- buildings are finished with colours that comprise subdued and earthy tones;
- external finishes have low reflective index characteristics.

It is considered that for the reasons highlighted above the resultant transformation of the land from rural to rural residential and the visual impact of the proposed development will be comparable to the visual impact and setting of the existing rural residential development within McLean's Ridges.

In regard to lot sizes the following table shows the distribution of lot sizes for the current proposal:

| Area (m <sup>2</sup> ) | No. of lots<br>(excluding<br>community lot) |
|------------------------|---|
| 3,000 – 4,000          | 2   |
| 4,000 – 5,000          | 6   |
| 5,000 – 6,000          | 2   |
| 6,000 – 7,000          | 16  |
| 7,000 – 8,000          | 10  |
| 8,000 – 9,000          | 9   |
| 9,000 – 10,000         | 2   |
| > 10,000               | 15  |

With the exclusion of the community lot and residue lots, the rural residential allotment sizes range from 3072m<sup>2</sup> to 9.19ha with an average of 10,920m<sup>2</sup>. As seen from the table above the majority of the lots are within the 6000 to 8000m<sup>2</sup> size range. By way of comparison the minimum lot size permissible within the 1(c) Rural Residential zone is 2,000m<sup>2</sup> with an average lot size is 5,000m<sup>2</sup>.

The southern section of Cameron Road supports around 20 existing rural residential lots on either side of the road with direct road frontage. The current proposal would result in a further 23 rural residential lots with direct road frontage on either side of Cameron Road. A number of the existing lots along the southern section of the road have lot frontages of 46m or less. Lots created by this proposal will have frontages of at least 70m.

Given the size of the new lots, frontage widths of these lots and landscaping requirements along Cameron Road under the 'Planning Agreement' it is considered that the proposed subdivision will have no greater visual impact than the existing rural residential development in Cameron Road. Another ten (10) lots will have access off the two minor roads accessing Cameron Road. These lots are likely to have low visual impact from Cameron Road however proposed lots 101 to 103 adjoin the boundaries of four existing rural residential lots and consequently there will be an impact on these lots.

A more significant impact on the landscape could be expected where development is proposed on the currently undeveloped ridgeline that will be serviced by the proposed new Road 1. The ridgeline is cleared and currently used for grazing. Twenty five (25) rural residential lots are proposed in this area and thus development will result in a material change to the landscape. Proposed lot sizes in this area range from 6,085m<sup>2</sup> to 1.8ha with an average lot size of 8553m<sup>2</sup>. The generous size of rural residential lots affords landowners greater opportunities to plant trees and shrubs and, over time, this will have a mitigating effect on the visual impact.

Further impacts will be experienced with the upgrading of Cameron Road which will result in a loss of some existing regrowth vegetation within the road reserve along the frontage of the development. However the Planning Agreement and recommended conditions by Council's Ecologist are incorporated into the consent will minimise tree loss, protect important habitat trees and undertake appropriate replacement landscaping.

b) Topography

The McLeans Ridges strategy area occupies a series of minor ridges and valleys that form the transition between the undulating plateau country to the south and the Wilson River floodplain to the north. In these areas the valleys are mostly too steep to support development and historically the pattern of roads and subdivision has followed the ridge lines. Cameron Road typifies this pattern with the road occupying the ridge top and houses located on either side of the road where the slopes are less steep. The current proposal will continue this pattern of development along the northern section of Cameron Road and the impacts could be expected to be similar to that which already exists along the southern section of the road.

A similar development pattern is proposed along the undeveloped ridgeline to the east of Cameron Road in that the new Road 1 follows the ridge top with building envelopes on either side of the road. Because of the undeveloped nature of this ridge, development here has the greatest potential for visual impact. The ridge could not be defined as a scenic ridgeline, ie. one with a high level of visual prominence in the landscape and where the ridgeline is viewed as a distinct edge against the skyline. The majority of existing houses in the area from which this ridge is visible are located at equivalent or greater elevation to the ridge and so do not view the landform as an edge against the skyline. However a significant change to the landscape in this area can be expected as a consequence of the proposal.

c) Distance from which the development is viewed

The distance from which a development will be viewed has a direct relationship to its level of visual impact. Within the viewing catchment the foreground zone (within 600m of the development) is the distance from which an observer experiences the maximum discernment of detail such as shape, colour and texture. This is the zone where the greatest level of visual prominence will be experienced.

Within the middle ground zone (between 600m and 3km) the observer discerns overall shapes and patterns and the different relationships between landscape units, however the level of visual prominence is significantly less than it is within the foreground zone. Within the background zone (greater than 3km) the observer discerns broader relationships between landscape units and patterns. Within this zone the visual prominence of most development would be low.

Within the foreground distance there are an estimated 10 houses from which at least part of the ridge is visible. Of these, six houses are on land that forms part of the current rezoning proposal (ie. are owned by the proponents). Within the middle ground distance, houses where all or part of the ridge is visible are located in the Roseview Road estate (approx 1.3km away), Satinwood Drive estate (about five houses approx 1.3km away) and Federation Drive, Eltham (approx 2.1km away).

Having regard to sizes and dimensions of the lots, the limitations imposed by local topography and the relatively few number of existing houses within the foreground viewing distance, the change in landscape character, and the impact on views and amenity are what could be reasonably expected where the predominant land use changes from non-intensive agriculture to one of closer rural settlement.

Given that the site was identified under the Rural Housing Strategy and that the LEP amendment was granted approval by Council for the proposed rural residential development there will be a degree of impact upon the existing landscape character and rural amenity within this locality from this development. It is the level of visual impact upon adjoining property that required consideration and assessment. Following an assessment of the proposed development it is considered for all of the reasons outlined above that the level of visual impact upon adjoining property from the transformation of the land from rural to rural residential living will be comparable to the visual impacts and amenity changes created by the existing rural residential development within McLean's Ridges. It is believed that this impact will be at its highest upon initial construction of the subdivision and during dwelling construction. However once public road reserve tree planting and private landscaping begins to mature the visual impact will be significantly reduced.

### **3. *Impact and adequacy on community facilities and services.***

Many of the objectors to this proposal raised concerns that McLeans Ridges is not a village and does not contain services and facilities (shop/s, school, sports and recreation facilities, public transport, infrastructure such as reticulated water and reliable electricity supply) that are provided in a village and that there was no (nor could there be) provision in the development to provide the types of facilities expected for the population likely to be generated by the proposals.

In assessing the impact on community facilities and services it is considered that McLeans Ridges will not in the future become a rural village/hamlet with the level of services and infrastructure that might be expected to be found in a village. As outlined within the LEP amendment report, McLeans Ridges supports existing rural residential development and is identified in the Lismore Rural Housing Strategy as having potential for additional rural residential style development. Land at McLeans Ridges was included in the Rural Housing Strategy because of a perceived demand by Council for rural residential blocks in this locality and because of its proximity to Goonellabah and Wollongbar, both of which provide a greater range of shopping, sporting and recreational facilities than would typically be found in a village. The proposal is located approximately 10km from the Goonellabah Shopping Centre and 13km from the CBD (via Boatharbour Road).

Public transport, other than a school bus service, is unlikely to be viable in McLeans Ridges and this unfortunately is probably true for any rural residential area where the density of development would be too low to make public transport an economic proposition.

The site is within the Clunes/Eltham/Bexhill Section 94 catchment area and so the development will contribute to both citywide and local recreational/community facilities within that catchment. In addition to this S.94 contribution which amounts to \$19,236 the Applicant has also agreed under the 'Planning Agreement' provisions to pay a contribution amount of \$632 per lot payable towards the McLeans Ridges hall. While it is recognised the McLeans Ridges hall has limitations in terms of its capacity and the size of the land on which it is situated it was reported in the LEP amendment Council report that representatives of the hall committee indicated that the hall is currently underutilised and can accommodate an increased level of use. As outlined in the LEP amendment Council report the proposed community lot is considered large enough to accommodate a facility such as a local community centre should there be a need for such a facility in the future.

### **4. *Impact upon the Natural Environment***

There were concerns within the public submissions about a lack of assessment of the cumulative impact of wastewater management systems, the potential for impacts on downstream users including agricultural users, groundwater and the Wilson River water catchment area.

The subject land is located within the Wilsons River catchment area and as McLean's Ridges is not on reticulated sewerage the proposed lots will use on-site sewage as the management treatment for sewage generated by the associated dwellings. This issue was addressed by Council's Environmental Health Officer who has indicated that the potential for a cumulative impact of on-site sewage treatment on the Wilsons River catchment and groundwater is minimal because the groundwater within the development site is at a depth of 26.2m below ground surface levels and the subdivision design has incorporated appropriate buffers (100m to watercourses and 40m to gullies) for all of the on-site sewage management systems along with secondary treatment. For the above reasons on-site sewage treatment should not pose a significant risk of harm to the environment or to the urban water supply being pumped from the Wilsons River.

There were also concerns within the public submissions about the adequacy of the flora and fauna assessment and potential impacts upon the natural flora and fauna environment.

As outlined by Council's Ecologist the design and location of the proposed development does predominantly avoid potential adverse environmental impacts on:

- Native terrestrial and aquatic flora and fauna and its habitat
- The ecological role of the land, waterways, riparian land or wetlands
- Threatened species, communities, populations and habitats

If amelioration works proposed in the recommended conditions of development consent are complied with and fully enacted, it is anticipated that the proposed development will create a positive environmental outcome.

## Submitters' Concerns

The matters raised in submissions have been addressed in the body of this report and via conditions of the proposed development consent.

## Sustainability Assessment

### Sustainable Economic Growth and Development

It is considered that the proposed development has positive sustainable economic growth and development benefits. There are public and social benefits derived from the 'Planning Agreement' from this development in terms of the monetary contributions towards the local road network and the community lot/park. The development will also provide employment opportunities in the housing and building industries which will have resultant positive multiplier effects on the local economy. The development will provide additional choices for existing and new residents seeking vacant rural residential land and will increase land supply and thus competition in the local market place.

### Social Inclusion and Participation

The proposal development was accompanied by a Social Impact Assessment that addressed the social impact of the proposed development and concluded that the proposed subdivision had appropriately responded to social impacts arising from the proposal by incorporating provision for community facilities to meet demand.

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

As outlined within the report the proposal will have a minimal impact on the environment but will not have any long term detriment to threatened or vulnerable species or endangered ecological communities. Sediment and erosion controls and the proposed revegetation of certain parts of the site and riparian areas along the existing watercourse will ensure the protection of the environment and biodiversity.

## Best-Practice Corporate Governance

The recommendation of this report supports best practice management principles, and the efficient and proper use of Council's resources. The purpose of this report is to obtain Council's decision on the proposed rural residential subdivision development.

## Comments

### Manager Finance

It is a fact that Council's budget is unable to fund the ideal standard of roads across the Local Government Area and the strategy adopted is to apply available funds to areas of need via a proven prioritised points system. With or without this development, Council's system will address the road network around McLeans Ridges and indeed a separate report to this meeting recommends the expenditure of \$850,000 on two projects in 2011/12. In respect to the Cameron Road development specifically, the Planning Agreement requires a contribution of some \$817,532 to be spent on the local road network. That is a positive for Council's budget. Additionally, an approved development will boost Council's annual rate revenue base by some \$88,000 which is significant when compared to the annual increase in annual rates from all properties which for 2011/12 will be \$660,000.

Taking these factors into account, if the development proceeds, the financial impact to Council will be a net positive.

## Other staff comments

### Manager - Development and Compliance

In considering the issues relating to the adequacy and impacts on the existing road network, it is important that Council understands its statutory obligations in determining this DA, and the relationship of various actions and legislative provisions that apply.

The Council has previously made a conscious decision to include the subject land in the Lismore Rural Housing Strategy.

As part of the rezoning assessment process, Council's Rural Housing Strategy was required to be considered in relation to impacts and need for upgrading of the surrounding network. The strategy provides limited guidance to define the extent of accessibility to the nearest urban area, major village or main road by a sealed road of adequate standard to accommodate increased traffic likely to be generated from existing and future development. The strategy states that *"the minimum standard is a 6 metre wide seal on an 8 metre gravel formation, with adequate pavement quality. Where this standard of access currently does not exist, it must be economically feasible for future development to meet the costs of upgrading existing substandard access roads. In these circumstances landowners within a proposed rural residential area will be required to enter into a legal agreement with Council to bring the road up to the required standard prior to Council proceeding with the rezoning."*

At the rezoning stage, Council considered the strategy and standard of access currently available in this locality, and embarked on a course of action to deal with this issue via a planning agreement providing for contributions to be made to Council. Whilst the planning agreement details the contributions rates and roads to which these contributions are to be directed, it leaves open the nature and extent of improvement works required to mitigate the impacts of the proposed subdivision. The reasonable road network improvement works identified at the rezoning stage to address the traffic impacts of the proposed subdivision were:

- Upgrading existing widths and pavement on Cowlong Road (west of Cameron Rd)
- Upgrading existing widths and pavement on Boatharbour Rd (east of Cameron Rd)
- Upgrading existing widths and pavement along the frontage of the subdivision on Cameron Road.

The condition of intersections and other lengths of road within the surrounding network (and the costs to bring these roads/intersections up to standard) were not considered to be reasonably imposed upon the proposed subdivision development, but the terms of the planning agreement leave Council with options to deal with these issues and direct the planning agreement contributions to works as appropriate to the above roads.

The contributions collected under the planning agreement should be directed to the roads identified above, to address the impacts attributable to the proposed subdivision.

The remaining works identified in the "*Road Infrastructure Assessment*" report of Stephen P McElroy & Associates dated January 2011 provide further detailed information of the surrounding road networks and identifies certain deficiencies. Given the course of action Council has embarked upon by including the subject land in the Rural Housing Strategy, proceeding with the rezoning, entering the planning agreement for road improvement contributions, and agreeing that those works will be undertaken by Council, Council has acknowledged its responsibility of addressing and funding the wider public benefits of all road network improvements required to address inadequacies which exist regardless of whether the proposed development proceeds.

Refusing the current application on the basis that the road network has inadequacies not covered by the planning agreement, would essentially require Council to:

- Resile from the position it has previously adopted of reasonable and fair cost sharing of road network improvements between the existing population and the works required to address the impacts attributable to the proposed development, as negotiated through the executed planning agreement, which has been further reflected to an extent in Council's adopted works program for the subject road network;
- Impose an unreasonable burden upon the developer that is disproportionate to the increased demand for road infrastructure facilities related to the proposed subdivision, where the applicant does not gain the total benefit of the works, and where some public funds are currently available or have been allocated in adopted works programs (and ongoing works program that are likely to be made) by the council for works in the locality;
- Adopt an alternative position that does not adequately respond to the current inadequacies experienced by the existing community's need for suitable road facilities in McLean's Ridges, and allocate little or no funds for future capital works to improve the road network generally with the expectation that future developments will provide the required funds in a timely fashion.

The determination of this current development application involves the exercise of discretion in the light of all relevant considerations, and that includes consideration of the terms of the planning agreement that Council has already entered into. The planning agreement however, does not impose an obligation on Council to grant development consent.

However, the flexibility provided in that executed agreement places the responsibility with council for prioritising and timely delivery of the necessary works in conjunction with its ongoing capital works program.

In relation to Council's exposure, should the development application be approved, the following comments are made:

- Council is aware of the existing deficiencies in the road network in this locality;
- Council's liability risk is proportionate to the action that Council takes to address those deficiencies that are known, regardless of whether the development proceeds;
- Council has acknowledged responsibility for undertaking the necessary road network improvement works in this locality, and in doing so, should propose a course of action over a reasonable timeframe that will address the needs of both the existing and future population.

It is therefore considered that Council's liability with respect to the road network would not be significantly increased above its existing liability exposure, unless Council approves the proposed subdivision, and allows it to proceed without committing to a responsive capital works improvement program in a timely manner that acknowledges funds collected under the planning agreement and relevant traffic issues that are known to Council.

## Public consultation

Referred to in the body of this report.

## Determination Options

The following table summarises four potential options available to Council in determining this application. The column 'action required' lists a summary of the process required to resolve the selected option. It should be noted that these are not all the potential options available to Council but are four clear options in the approve/refuse range.

### Determination Options

| Number | Determination Options   | Action Required   |
|--------|---|---|
| 1      | Approve the application with the recommended conditions of consent (This is the RECOMMENDED option).  | <ul style="list-style-type: none"> <li>▪ Determine at the Council meeting that the application is approved subject to the proposed conditions as recommended by Council staff.</li> <li>▪ Prepare the approval and notification letters in accordance with the <i>Environmental Planning and Assessment Regulations, 2000</i>.</li> </ul>   |
| 2      | Approve the application with changes to recommended conditions and/or additional conditions but without altering the subdivision layout and/or planning agreement.  | <ul style="list-style-type: none"> <li>• Council could determine the application at the meeting and prepare the approval and notification letters in accordance with the <i>Environmental Planning and Assessment Regulations, 2000</i>.</li> </ul>   |
| 3      | Approve the application with changes to recommended conditions and/or additional conditions that involve altering the subdivision layout and/or planning agreement. | <p>Council would have to defer determination to enable:</p> <ul style="list-style-type: none"> <li>• Changes identified and agreed upon by Council and Applicant as appropriate.</li> <li>• Review and redraft all conditions.</li> <li>• Depending on changes, possibly refer application back to Government Agencies listed above.</li> <li>• Prepare supplementary report and draft conditions for adoption by Council.</li> <li>• Processing timeframe would be approximately 60 days.</li> </ul>   |
| 4      | Refuse the application.   | <ul style="list-style-type: none"> <li>• The determination must include the reasons for refusal.</li> <li>• Any reasons will have to be carefully worded and take into account the assessment of issues within this report.</li> <li>• The general intent of the reasons for refusal should be stated but the substantive resolution deferred to enable drafting of a determining resolution for presentation at a subsequent Council meeting.</li> <li>• This may require Council to convene an Extraordinary Meeting of Council.</li> </ul> |

The following should be considered when making a determination:

- Conditions under the heading “Integrated Development” **cannot** be modified in any way by Council.
- Conditions cannot be created that do not reasonably relate to the DA.
- Conditions cannot be imposed where Council is not the Regulating or Licensing Authority for that activity or works.

The proposal is ‘Integrated’ under *Section 91 Environmental Planning and Assessment Act, 1979*. As a result any changes to the recommended conditions may require Council to notify the Government Agencies and request that they amend their previous conditions, licensing requirements and/or comments.

There are no prescribed timeframes for option 3 (above) in the *Environmental Planning and Assessment Act, 1979* or the *Environmental Planning and Assessment Regulations, 2000*. Therefore it is considered reasonable to give the Government Agencies forty (40) days to provide comments and/or changes to their previous submissions if this option is pursued.

It is to be noted that any of the above options may result in legal proceedings as both the Applicant and the objectors have appeal rights.

## Conclusion

Development consent is sought to subdivide the land into a total of 62 rural residential lots plus one community lot and two residual lots. The subject site has been identified since 2002 in the Lismore RHS as a possible rural residential area whilst the proposed development has been the subject of a lengthy and detailed planning process, with the owners of the land lodging an application to Council to rezone the land in 2004.

In 2008 Council granted approval to the rezoning/LEP Amendment (No.20) to permit the proposed rural residential subdivision. The proposed development is permissible with consent and is consistent with Clause 28 under the provisions of the Lismore LEP 2000. There is also a ‘Planning Agreement’ associated with the proposed development. The proposed subdivision layout and number of lots is consistent with LEP Amendment No.20 and the ‘Planning Agreement’.

As outlined in the *Lismore Rural Housing Strategy 2002* rural residential subdivision in the McLeans Ridges area has been a controversial issue. It is acknowledged that the issue of permissibility and suitability of the site for rural residential development was addressed at the re-zoning/LEP amendment stage of the planning process. The proposed development has been subject to detailed assessment under all applicable State Regional and Local Environmental Planning Instruments, Council DCP 2007 and Council policies as well as an assessment of all likely environmental impacts (natural, built, social and economic), public submissions and the public interest.

The proposed development is an ‘Integrated Development’ under the *EPA, Act, 1979* and required concurrence approval from *NSW RFS, NSW Department of Industry & Investment* and *NSW Office of Water*. As outlined in the ‘Integrated Referrals’ section of the report each of these government agency’s granted concurrence subject to General Terms of Approval (GTA). The proposed development also required assessment from a number of Council’s technical officers and a summary of their comments is outlined in the ‘Internal Referrals’ section of the report. It is noted that whilst the majority of the technical officer’s acknowledged that there was likely to be some level of environmental impact from the development proposal each officer recognised that the ‘Planning Agreement’ and recommended Conditions of Consent satisfactorily addressed or ameliorated any environmental impact caused by this development.

It is agreed that the proposed change of the subject land use from rural land to rural residential land will have impacts on the existing landscape and rural amenity as well as impacts upon the natural, built and social environment. In particular there will be likely impacts to the local road network generated by this development. It is the likely impacts outlined above that resulted in a large number of submissions in relation to the proposed development. The development assessment has focussed on the likely impacts created by this development.

The existing McLeans Ridges community is divided over this development application as evidenced by the large number of public submissions.

However after a review of the strategic planning background that permits the material change of this land from rural to rural residential development and following an assessment of the development application it is considered that there is likely to be some level of environmental impact from the development proposal but these impacts do not warrant refusal and the 'Planning Agreement' and recommended Conditions of Consent satisfactorily address or ameliorate any environmental impact caused by this development.

It is further considered the proposed development is in the public interest for Lismore City Council and the McLeans Ridges locality for the following reasons:

- the use of the subject land for rural residential purposes is consistent with the Lismore Rural Settlement Strategy
- there are public and social benefits derived from the 'Planning Agreement' from this development in terms of the monetary contributions towards the local road network and the community lot/park .
- the development will provide employment opportunities in the housing and building industries which will have resultant positive multiplier effects on the local economy
- the development will provide additional choices for existing and new residents seeking vacant rural residential land
- the development will increase land supply and thus competition in the local market place

## Attachment/s

- |   |                |
|---|----------------|
| 1. Plans of the development   | (Over 7 pages) |
| 2. Initial Cameron Road Planning Agreement dated 16 October 2008      | (Over 7 pages) |
| 3. Further Cameron Road Planning Agreement as Amended - Community Lot | (Over 7 pages) |
| 4. Report to Council - Draft Amendment 20 to LEP                      | (Over 7 pages) |
| 5. Report to Council - Lep Amendment 20                               | (Over 7 pages) |
| 6. Report to Council - Draft Amendment 20                             | (Over 7 pages) |
| 7. Report to Council - Draft Amendment 20                             | (Over 7 pages) |
| 8. Report to Council - Draft Amendment 20                             | (Over 7 pages) |
| 9. List of submitters   | (Over 7 pages) |

## Recommendation

That:

- A. Council grant approval to the further 'Planning Agreement' of 2011 prepared by McCartney Young Lawyers, subject to an amendment to clause 13.1.3 to state: *'park embellishments to the value of \$70,000 (indexed to the Sydney Building Price Index (as adjusted to reflect regional variations)) have been constructed and installed on the Community Lot including a picnic shelter, slab floor, tables, seating, bin, swing, tank and water tap and landscape trees to the Council's satisfaction in accordance with a plan approved by the Council.'*
- and:

1. execute the 'Planning Agreement' attached to this report (as amended in accordance with the above words or equivalent) under the common seal of Council;
2. Forward a copy of the Planning Agreement to the Minister for Planning within 14 days of the Agreement being entered into by Council;
3. Not proceed with the Draft Section 94 Contributions Plan for a Neighbourhood Park in Cameron Road, McLeans Ridges;
4. Give public notice that the Draft Section 94 Contributions Plan will not proceed in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2000*

B. **THAT** Council, grant consent to Development Application No. 5.2010.77.1, subject to the following conditions.

## Conditions of Consent

### General

1 In granting this development consent, Council requires:

- All proposed works be carried out in accordance with any amendment or modification outlined in these conditions
- Compliance with the requirements of the '*Cameron Road Planning Agreement*' dated 16 October 2008 (as amended), and the further "Cameron Road Planning Agreement" of 2011 prepared by McCartney Young Lawyers between Lismore City Council and Cameron Road Landowners.

and be substantially in accordance with the following approved plans submitted with the application:

| Drawer/Name             | Description of Plan                       | Job No.      | Drawing No. | Date       |
|-------------------------|---|--------------|-------------|------------|
| Ardill Payne & Partners | Lot & Residue Layout Plan 1:2500          | Job No. 6937 | LP-B01      | 29/10/2010 |
| Ardill Payne & Partners | Lot Layout Plan – Alternate Park PART 'A' | Job No. 6937 | LP-B02      | 29/10/2010 |
| Ardill Payne & Partners | Lot Layout Plan – Alternate Park PART 'B' | Job No. 6937 | LP-B03      | 29/10/2010 |
| Ardill Payne & Partners | Alternate Community Lot Details           | Job No. 6937 | CL1         | 18/06/10   |

A copy of the approved plans are attached to this consent.

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

### Planning

2 **Prior to the release of any Subdivision Certificate** the Applicant is to submit a written report to Council for review and certification from Council (by way of letter) detailing how all monetary and work commitments made under the '*Cameron Road Planning Agreement*' and the further "Cameron Road Planning Agreement" of 2011 prepared by McCartney Young Lawyers between Lismore City Council and Cameron Road Landowners have been complied with or completed.

**Reason:** *To correctly describe what has been approved, ensure that the proposed development addresses the increased demands for services and facilities arising from the proposal at the relevant stages, and comply with the relevant legislated requirements. (EPA Act Sec 79C)*

3 Payment of contributions levied under Section 94 of the Environmental Planning and Assessment Act and Lismore Contributions Plan 1999 (as amended) are required. Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect on the date the **Subdivision Certificate is released**. The rates and amounts applying at the date of this notice, totalling **\$40,404.00**, are set out in the schedule for your information. Should the proponent wish to pay the Section 94 levies in one instalment, and the total contribution payable exceeds \$20,000 payment to Council must be by bank cheque or cash. Personal cheques are not acceptable. All contributions, bonds etc. shall be paid **prior to the release of the Subdivision Certificate**.

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

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

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

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

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

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

## Engineering

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

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

- 5 **Prior to the issue of a Construction Certificate for Subdivision earthworks** all earthworks, roadworks, stormwater drainage structures and associated civil infrastructure as shown in the Ardill Payne & Partners drawing LP-B01, LP-B02 and LP-B03 dated 29 October 2010 shall be amended as required so that all infrastructure is designed and constructed in accordance the Northern Rivers Local Government Development and Design manual (as amended) and Chapter 6 of Lismore Development Control Plan - Part A "Subdivision and Infrastructure – Village and Rural Subdivision" as well as amendments listed elsewhere in this approval. The proponent shall be responsible for any costs, including maintenance, for a period of six months from the date of approval of completion of the work and shall lodge a security equivalent to 5% of the cost of the works with Council to guarantee rectification of any defects.

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

- 6 **Prior to the issue of a Subdivision Certificate** the proponent shall dedicate to Council as road reserve a parcel of land as detailed on the Ardill Partner & Partners Drawing 6937 LP-B01, which is located between lots 5 and 6 and connects Road 1 through to the existing unconstructed road reserve which lies between lot 123 DP 731488 (proposed residual lot 500) and lot 1 DP 441201

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

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

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

- 8 **Prior to issue of the Subdivision Certificate**, a Certificate of Compliance from an accredited electricity infrastructure provider shall be required confirming that it has provided underground electrical power to each lot, a street lighting for the development at the following locations
- Each road intersection
  - Each cul-de-sac head
  - Each significant change in horizontal road alignment
  - Each lot fronting Roads 1,2 & 3.

In accordance to the Australian Standard and that charges for the extension of electricity supply have been paid.

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

- 9 **Prior to issue of the Subdivision Certificate**, the proponent shall ensure the provision of telephone services is available to all lots. A Certificate of Availability from the relevant utility provider shall be required confirming that the respective utility's requirements have been met.

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

- 10 **Prior to the issue of a Subdivision Certificate** all utility services shall be relocated to ensure that all services are located within the respective lots to which they service or alternatively appropriate easements covering encroaching services be created upon the subdivision certificate. A plan showing the location of each of these services for the lots shall be lodged with the Subdivision Certificate.

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

- 11 **Prior to commencement of construction** the proponent shall provide Council with a Certificate of Final Design Approval from the relevant utility provider.

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

- 12 No restriction as to user shall be imposed upon any allotment that would purport to restrict development that would otherwise be permissible under the terms of the Lismore Local Environmental Plan or the Environmental Planning and Assessment Act.

**Reason:** *To ensure appropriate planning controls are applied to the development and to comply with Clause 26 of the Lismore Local Environmental Plan.*

- 13 Road names proposed for the subdivision shall be submitted to Council and the Geographical Names Board for **approval with the Construction Certificate** application for the subdivision works. A suitable name for any new roads shall be in accordance with Council and Geographic Names Board Policy.

**Reason:** *To ensure premises are able to be reasonably located by emergency services and the like.*

- 14 Street signage in accordance with Council's adopted standard shall be erected **prior to release of the Subdivision Certificate**.

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

- 15 **Prior to release of the Subdivision Certificate** the proponent shall place street number identification at the road frontage of the property to indicate the property address.

**Reason:** *To identify the property correctly (EPA Act Sec 79C (e)).*

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

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

- 17 Prior to the issue of a subdivision certificate, the proponent shall apply for the closure of the unformed road **reserve contained within** the proposed subdivision and in the event that the application is successful incorporate the closed road into the subject blocks

**Reason:** *To eliminate redundant road reserves and limit the creation of severed parcels of land. .*

- 18 **Prior to the issue of a Subdivision Certificate**, the proponent shall apply for the closure of the unformed road reserve dissecting proposed lots 9 to 11 and 21 to 25 and in the event that the application is successful incorporate the closed road into the subject lots.

**Reason:** To eliminate redundant road reserves and limit the creation of severed parcels of land.

### Geotechnical

19 **Prior to being issued with a Construction Certificate**, certification from a practising qualified engineer experienced in soil mechanics is required verifying the following:

- proposed civil engineering works, including retaining walls, have been assessed as structurally adequate,
- proposed civil engineering works will not be affected by landslip either above or below the works,
- proposed civil engineering works will not be affected by subsidence either above or below the works,
- adequate drainage has been proposed to ensure the stability of the proposed civil engineering works .

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

20 **Prior to being issued with a Construction Certificate** a qualified practising structural engineer shall provide Council with a design certification for any proposed retaining walls in the development. The certification shall state that the walls have been designed to resist soil and water loadings for full saturation of the height of the wall and surcharge from any structure within the zone of influence of the wall. Retaining walls shall be founded on residual soil or weathered rock. Any proposed retaining wall shall be constructed wholly within the lots. No retaining wall shall be constructed upon the road reserve.

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

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

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

22 Bulk earthworks shall not commence on site until **the release of the Construction Certificate**.

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

23 The slope of any cut or fill batter shall not exceed 1:4 unless specific geotechnical advice as to the stability of the proposed batters is provided by a suitably qualified geotechnical engineer.

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

24 During construction any area of seepage identified at the base of filling or behind filling shall be brought to the attention of the supervising geotechnical engineer and treated by the provision of a suitable drainage mechanism. Details of any necessary works are to be provided to Council.

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

25 **Prior to the release of the Subdivision Certificate**, a NATA registered geotechnical testing authority shall submit documentary evidence in the form of level 1 certification, certifying that any fill material has been placed in accordance with Australian Standard 3798 "Guidelines on earthworks for commercial and residential developments". The completion report must note that the; foundation, fill materials, workmanship, fill compaction density and fill moisture contents are acceptable for the intended and certified use of the fill and meet the specifications of the site. Filling in excess of 2m of height must be accompanied by a geotechnical slope stability analysis of the final construction undertaken using limit equilibrium techniques and site specific parameters.

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

26 **Prior to the release of the Subdivision Certificate**, a qualified practising Engineer, experienced in soil mechanics and local conditions, shall submit documentary evidence in the form of a Geotechnical Investigation Report to Council for approval, certifying that each allotment is suitable for building purposes and classifying each allotment in accordance with Australian Standard 2870 "Residential Slabs and Footings. Such reports shall generally be done in accordance with the following requirements:

Reports shall be site specific and include an investigation of the subsurface conditions typically involving more than two test pits or boreholes per site.

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

## Roads

27 **Prior to commencement of any works** upon the site the proponent shall obtain a Construction Certificate for the proposed road and associated stormwater drainage works. The construction certificate application shall include full design details of the proposed engineering works to satisfy the road and associated stormwater drainage works condition(s) within this development consent. Such application shall be accompanied with the relevant fee, as adopted at the time of the relevant payment, as indicated in Council's Fees and Charges.

**Reason:** *To ensure an adequate road network in accordance with adopted standards. (EPA Act Sec 79C(a)) and to comply with requirements of EPA Act Sec 81A(4)*

28 a) **Prior to commencement of work** a Construction Traffic Management Plan shall be submitted to, and approved by, Council. Such plan shall include: scheduling of works so as to be completed in the shortest possible time with minimal impact on the general community; details of haulage routes to be utilised for delivery and removal of material from the site; traffic control plans prepared by an RTA accredited person for any works that impact upon the movement of vehicles or pedestrians upon the public road; a requirement for any damage to road infrastructure arising from construction activities to be reinstated at the developers cost prior to completion of the project.

b) **Prior to the release of the subdivision certificate** the proponent shall provide a traffic management plan detailing the position of regulatory signage, linemarking and other traffic regulatory devices such as advisory signs including speed limit restrictions for the consideration and endorsement of Council.

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

29 **Prior to the release of a Subdivision Certificate** the proponent shall provide the following roadworks with associated stormwater drainage structures. The geometric design of the road network shall comply with all details set out in the Lismore Development Control Plan – and section D1 Geometric Road Design of the Northern Rivers Local Government Development and Design manual (as amended).

The proponent shall be responsible for any costs, including maintenance, for a period of six months from the date of approval of completion of the work. Required roadworks include:

### *Cameron Road*

- Upgrade Cameron Road to a 7 m wide bitumen seal on 9 m gravel formation complying with the Northern Rivers Local Government Development and Design Manual requirements. The Cameron Road realignment is to be designed and constructed in such a way that that native trees and shrubs are retained and that woody weeds are removed.
- Overlay the existing pavement with 100 mm compacted depths of gravel and cement stabilise to a depth of 200mm.
- Design to 60 kph design
- Sign in accordance with the Manual of Uniform Traffic Control Devices a 60 kph speed zone on Cameron Road where fronting the proposed development
- construct traffic management elements to ensure a 60 kph speed environment

### *Internal Road 1, Road 2 and Road 3*

- All internal roads shall be designed and constructed in accordance with the Northern Rivers Local Government Development and Design Manual to a two lane rural residential local road standard
- Construct to a 6m wide bitumen seal with 1m gravel shoulders
- Cul-de-sac heads for roads 2 and 3 shall have a 10m turning radius
- Cul-de-sac heads for road 1 shall have a 12.5m turning radius.
- Required to design these roads to a 40 kph design speed
- Construct speed restricting elements to ensure the speed environment of 40 kph

### *Intersection of Road 1, Road 2 and Road 3 with Cameron Road*

- Shall be designed and constructed in accordance with the Northern Rivers Local Government

- Development and Design Manual and the Austroads Part 5 "Intersections at Grade.
- Each intersection shall have a dedicated right turning lane into the development.
- Each intersection shall be designed in a manner to aid in reducing the speed environment in Cameron road to 60kph.
- Where the road longitudinal grade exceeds 12%, concrete kerb and channel shall be provided in lieu of the grassed table drains.
- Each intersection shall have a dedicated right turning lane from Cameron Road into Roads 1, 2, and 3.

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

- 30 **Prior to the release of a Subdivision Certificate** the proponent shall construct:
- A 1.2m wide concrete footpath along the north eastern side for the full frontage of Cameron Road. The footpath is to be designed and constructed in such a manner that preserves native trees and shrubs but removes the woody weeds.
  - A 1.2m wide concrete footpath along western side of Road 1 from Cameron Road to the community lot

as detailed in Ardill Payne & Partners Drawing LP-B01 dated 29 October 2010 and Ardill Payne & Partners Drawing Number CL1 dated 18 June 2010. All costs shall be the responsibility of the proponent.

**Reason:** *To ensure an adequate pedestrian network in accordance with adopted standards*

- 31 **Prior to the release of the Subdivision Certificate** the Applicant shall obtain a certificate of completion for the roadworks and associated stormwater drainage structures from Council. Prior to obtaining this certificate a practising qualified surveyor or engineer shall submit to Council for approval, a "works-as-executed" set of plans, completed asset record forms and a construction certification. The certification shall certify that all roads, drainage and civil works required by this development consent and the approved design plans have been completed in accordance with Council's Development and Construction Manual (as amended).

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

- 32 **Prior to issue of the Subdivision Certificate**, street signage in accordance with Council's adopted standard shall be erected at all new street intersections.

**Reason:** *To ensure adequate street signage for the development. (EPA Act Sec 79C(c))*

## **Vehicular Access**

- 33 Design details for driveways to battle-axe blocks included in this development being lots 3, 27, 36, 103, 206, 208, 201, 301, and 401 shall be submitted with the **Construction Certificate**. The driveway designs shall generally be in accordance with Council's Design and Construction Specification for Vehicular Access, Australian Standard AS2890.1 Parking Facilities – Offstreet Parking and Council Policy Number 1.8.2 "Access to Battle Axe Type Subdivisions". In addition the driveway shall be a minimum width of 3.0m wide where servicing 1 lot. An asphaltic concrete (25mm depth) sealed or equivalent surface shall be applied to the full length of the driveway. All works shall be constructed in accordance with Council's Development, Design and Construction Manuals (as amended) prior to the issue a Subdivision Certificate. The Subdivision certificate shall create reciprocal right of way giving benefit to all lots proposed to utilise the shared access.

Provision shall be made for the future supply of the following services within the access shaft:

- water supply
- sewer
- stormwater
- telephone
- power

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

- 34 Prior to the release of the subdivision certificate a vehicular access from the road pavement to lots 1, 3, 27, 29-37, 100, 103, 200, 201, 203-209, 301-304, 401 and the unconstructed road reserve between lots 5 and 6, as well as any existing access, shall be provided by the construction/upgrading of a crossing, in accordance with the Council's Design and Construction Specification for Vehicular Access.

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

- 35 **During the subdivision construction works** all loading and unloading of construction vehicles and plant shall take place within the property boundaries, as will the parking of construction and private vehicles associated with the development.

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

- 36 **During the subdivision construction works** vehicles using any off-street loading/unloading and/or parking area must enter and leave in a forward direction, in accordance with Council's Development Control Plan No. 1, Part A, Chapter 7 - Off Street Carparking Requirements. All driveways and turning areas shall be kept clear of obstructions that prevent compliance with this condition.

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

- 37 **Prior to the issue of a Construction Certificate** the proponent shall lodge a bond equivalent to 5% of the cost of the proposed works with Council to cover any damage to infrastructure within the road reserve arising during the construction of the proposed development. Evidence is to be provided to Council indicating the pre development condition of the surrounding public infrastructure. Any damage arising from construction activities to roads, kerb and gutter, footpaths or any other infrastructure within the road reserve shall be reinstated in accordance with Council's Development, Design and Construction Manuals (as amended) to Council's satisfaction prior to refund of the bond. Certification as to compliance with this condition shall be provided to Council prior to the issue of a **Subdivision Certificate**.

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

- 38 Where either existing or proposed vehicular accesses front Cameron Road, vehicles must enter and leave in a forward direction, in accordance with Council's Development Control Plan No. 1, Part A, Chapter 6 – "Subdivision and Infrastructure – Village and Rural Subdivision" section 6.2.3 item 7. All driveways and turning areas shall be kept clear of obstructions that prevent compliance with this condition.

**Reason:** To ensure driveway egress movements do not create a safety hazard. (EPA Act Sec 79C(c))

- 39 **Prior to the release of a Subdivision Certificate** the proponent shall provide at no cost to Council the following:
- Two tapered bus bays including timber and metal clad bus shelters in accordance with Council's standard Drawing No. SD 1256 on Cameron Road adjacent to the frontage of lot 1 and lot 32 on Cameron Road and
  - A third tapered bus bay including a timber and metal clad bus shelter adjacent to the community lot on Road 1.

These locations must be confirmed **prior to the issuing of the Construction Certificate** to ensure compliance with sight distances and general safety for people crossing road at these locations.

**Reason:** To provide for adequate public transport infrastructure (EPA Sec 79C(e))

- 40 **Prior to the commencement of works** the Applicant shall obtain approval under section 138 of the Roads Act for the required road works upon Cameron Road. For this approval an application shall be made on the prescribed form accompanied with the relevant fee, as specified in Councils adopted fees and charges, and the following information:

- a) Detailed design plans
- b) Pavement Design
- c) Specification for Construction
- d) Review of environmental factors
- e) Environmental management plan
- f) Traffic control plan prepared by an RTA accredited person for any works that impact upon the movement of vehicles or pedestrians upon the public road
- g) Proposed signposting.

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

## Stormwater

41 **Prior to being issued with a Construction Certificate** full design details of a stormwater management system for the development shall be submitted to Council for approval under Section 68 of the Local Government Act. Stormwater control and treatment measures shall be installed to ensure stormwater discharges satisfy the qualitative and quantitative objectives of Council's Stormwater Management Plan. The discharge of stormwater from the site shall be limited to the pre-development flow for an ARI of 10 years. These plans shall include a schedule that identifies each component of the stormwater management system and how that component satisfies the qualitative and quantitative objectives of the stormwater management plan.

The application must be accompanied by a Stormwater Management Plan (SWMP), which must be reviewed/updated to ensure compliance with contemporary standards and requirements with any subsequent renewal of the Section 68 approval. The SWMP must comprehensively address maintenance requirements (including timetabling of maintenance), access to facility, longevity for all stormwater devices, and the performance monitoring of the installation and discharges. The SWMP must be written in such a manner that it can be readily understood and be implemented by the person/s nominated to action the plan.

**Reason:** *To manage stormwater quality and quantity and to protect the environment. (EPA Act Sec 79C(b))*

42 **Prior to release of the Construction Certificate** detailed design showing that unobstructed overland flow path/s have been provided to prevent any inundation of future habitable structures and to drain all surcharge and surface waters for the major system design event.

Appropriate easements including:

- Where overland flow paths and open channels pass through private property..
- Any other overland flow that may be identified during the design and construction phase of the development

shall be created to ensure that the flow paths will not be obstructed by any non approved structures, landscaping or the like, that may reduce flow path design capacity. The easements shall be sized to contain the 1 in 100 year ARI flood flow plus a freeboard of 150mm.

**Reason:** *To ensure that the land or adjoining land is not damaged by the uncontrolled discharge of concentrated runoff. (EPA Act Sec 79C(b))*

43 The proponent shall make satisfactory provision for existing lots adjoining the property and the proposed lots to dispose of stormwater without causing a nuisance to other lots. An adequate drainage system shall be constructed to ensure that all roof water and/or surface water from paved areas from any existing or proposed lots can be directed to a discharge point to prevent intensification of discharge runoff onto adjoining land. All works are to be constructed according to Council's Development, Design and Construction Manual (as amended). All drainage lines are to be located within drainage easements.

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

44 **Prior to release of the Subdivision Certificate**, a suitably qualified person is required to furnish a statutory certificate confirming:

- all drainage lines have been located within the respective easements,
- all stormwater has been directed to a Council approved drainage system.

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

## Sediment and Erosion Control

45 **Prior to release of the Construction Certificate or commencement of any works** upon the site a "Soil Erosion and Sedimentation Control Plan of Management" (SESCPM) must be submitted to and approved by Council. The plan must outline what measures are proposed and the action that will be taken to manage the completion of the development to minimise any erosion or sedimentation from the site. The plan must be consistent with the "Managing Urban Stormwater-Soils and Construction" (blue book). It must have a summary sheet and be in plain English to ensure that it is capable of being readily understood and implemented by the site managers and operators and nominated responsible person/s. Responsible person/s must be nominated to Council in writing together with full 24 hour per day contact details for the purposes of the SESCOPM.

**Reason:** To ensure the proper management of the site with regard to soil erosion and sedimentation.

- 46 **Prior to commencement of any subdivision works** on the site Erosion and Sediment control measures shall be put into place and be properly maintained to prevent soil erosion and the transport of sediment from the site and into natural or constructed drainage lines or watercourses. Measures must:

- maximise the diversion of clean waters, and
- minimise the extent and duration of site disturbance, and
- include devices/practices to prevent sediment being carried from the site by vehicle and plant tracks and tyres.

All disturbed areas shall be stabilised and revegetated. Turfing or another approved seeding method shall be undertaken in each part of the development within 14 days of completion of earthworks. Topsoil shall be preserved for site revegetation. All control measures must be regularly inspected and be maintained to ensure they operate to the design requirements and to meet all relevant environment protection standards. Weather patterns must be monitored and be coordinated in with the inspection and maintenance procedures. Control measures are to remain in place until the site has been adequately revegetated or landscaped to prevent soil erosion.

**Reason:** To ensure the proper management of the site with regard to soil erosion and sedimentation

- 47 Design, construction and management of the sedimentation basins are to be strictly in accordance with the "Managing Urban Stormwater: Soils, and construction (Landcom, 2004)" guidelines; based on the 90<sup>th</sup> percentile five day rainfall event as a design criterion (i.e. 60mm).

**Reason:** To protect the environment. (EPA Act Sec 90(1)(b))

- 48 **Prior to release of the Subdivision Certificate** the land designated as lot 22/23 on Ardill Payne & Partners drawing LP-B01 dated 29 October 2010 shall dedicated to Council for use as a community lot and detailed in the 'Cameron Road Planning Agreement' (updated 23 November 2010).

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

- 49 **Prior to the registration of fifty (50) lots** the proponent shall:
- construct a graded, grassed car park area for a minimum of six (6) car bays on the verge adjacent to the community lot;
  - provide all earthworks, retaining walls, top dressing and grassing for an area of 3,600m<sup>2</sup> of the community lot, and
  - provide park embellishments including a picnic shelter, slab floor, tables, seating, bin, swing, tank and water tap and landscape trees.

These works are to be undertaken in accordance with the Ardill Payne & Partners drawing 6937 CL1 dated 18 June 2010. All costs shall be the responsibility of the proponent.

**Reason:** To ensure an adequate pedestrian network in accordance with adopted standards

## Emergency Fire Egress

- 51 **Prior to the issue of a Subdivision Certificate** a "Right of Carriageway" shall be created giving benefits to the Rural Fire Services for emergency fire egress over the residual of lot 123 DP 731488 between the cul-de-sac head of Road 1 and Boatharbour Drive as detailed on Ardill Payne & Partners drawing LP-B01 dated 29 October 2010.

**Reason:** To comply with the Rural Fires Act 1997.

- 52 **Prior to the release of a Subdivision Certificate** the proponent shall construct to Council and Rural Fires Services standards a fire egress and provide a minimum of 5m horizontal and 4m vertical clearance free of overhanging trees, branches, vines and the like.

**Reason:** To comply with the Rural Fires Act 1997.

## Environmental

- 53 The burning off of vegetative and other wastes arising from the subdivision development is prohibited. Suitable arrangements shall be made for the processing and/or re-use of all waste materials generated by the development activity or alternatively wastes shall be transported to an approved waste facility.

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

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

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

- 55 Any development which generates sewage or domestic wastewaters, must have installed an on-site sewage management facility designed to manage all wastes in accordance with Council's On-Site Sewage and Wastewater Management Strategy or other policy that is contemporary at the time of the proposed development.

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

- 56 The existing on-site sewage management systems on proposed Lots 1, 29, 37, 100, 207, 302, shall be inspected to ensure protection of public health and the environment, and must satisfy all boundary setbacks and buffer distances contained in Council's *On-site Sewage and Wastewater Management Strategy*. Any existing sewage systems located on adjoining properties must be decommissioned according to Department of Health requirements and have installed an on-site sewage management facility designed to manage all wastes in accordance with Council's On-Site Sewage and Wastewater Management Strategy. Any failing system shall also have installed an on-site sewage management facility designed to manage all wastes in accordance with Council's On-Site Sewage and Wastewater Management Strategy.

**Prior to the issue of a Subdivision Certificate** details prepared by an appropriately qualified person and demonstrating compliance with this condition shall be submitted to and be approved by the Certifying Authority. A copy of this documentation must be provided to the Consent Authority (LCC) for record purposes.

**Reason:** *To ensure that sewerage management facilities are provided on the land and meet relevant setback and buffer requirements.*

- 57 The effluent disposal area envelopes as identified in the approved report by Ardill, Payne & Partners (dated February 2010) for Lots 17, 305 and 401 shall be excavated to a minimum one (1) metre or to bedrock. A similar soil type (light clay/loam with no coarse fragments) shall be placed in the envelope to achieve a minimum one (1) metre soil depth. Any spoil from such excavation must be disposed of at Council's landfill or other approved site.

**Reason:** *to ensure satisfactory management of effluent*

- 58 All fill imported onto the site must be clean fill and free from any contamination, within the meaning of the *"Managing Land Contamination – Planning Guidelines – SEPPNo.55 – Remediation of Land"* document published in 1998 by the NSW Government.

**Reason:** *to protect human health and the environment.*

- 59 **Prior to the issue of a Subdivision Certificate** details prepared by an appropriately qualified person and demonstrating that Groundwater bores number GW 035514 as indicated on the NSW NR Atlas (NSW Office of Water) have been decommissioned. Evidence of compliance with this condition shall be submitted to and be approved by the Certifying Authority. A copy of this documentation must be provided to the Consent Authority (LCC) for record purposes.

**Reason:** *To protect public health.*

- 60 Groundwater bore number GW 046368 as indicated on the NSW NR Atlas (NSW Office of Water) is restricted to non-domestic uses only.

**Reason:** *To protect public health.*

## Building

61 **Prior to the release of the Subdivision Certificate**, a qualified practising Engineer, experienced in soil mechanics, shall submit documentary evidence in the form of a Geotechnical Investigation Report to the Principal Certifying Authority for approval, certifying that each allotment is suitable for building purposes and classifying each allotment in accordance with Australian Standard 2870 "Residential Slabs and Footings". Any allotment subject to further earthworks during the construction phase will require an amended Geotechnical Report.

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

## Ecological

62 **Prior to the commencement of subdivision works** the Applicant is to submit to Council for approval the construction design of the stock crossings over the eastern and western streams. In this regard the Applicant is advised that any stock crossings of the above streams are to be designed and constructed in accordance with the following guidelines:

- DWE (2008b). *Guidelines for controlled activities: Watercourse crossings*. Department of Water & Energy NSW, Sydney, NSW.
- DWE (2008c). *Guidelines for controlled activities: In-stream works*. Department of Water & Energy NSW, Sydney, NSW.

**Reason:** *To ensure that the design and constructions of stock crossings meet NSW State Government guidelines.*

63 **Prior to the commencement of subdivision works** the Applicant is to submit to Council for approval a Landscaping/Vegetation Management Plan (henceforth, 'the plan').

The plan must incorporate the works detailed in the document referred to as the '*Environmental Management Plan*' (as outlined in Clause 9 of the '*Cameron Road Planning Agreement*') prepared by *PLACE Environmental* dated 25 September 2006 (specifically, Attachment 2 – Proposed Management of Threatened Plants and Attachment 3 – Rehabilitation of the Eastern & Western Waterways) and should relate to the approved lot layout identified in plans LP-B02 and LP-B03.

A works program must be incorporated in the plan to ensure that all works associated with the submitted and approved plan are completed within an appropriate timeframe. Subject to compliance with the recommendations and performance criteria detailed within the plan, works are to be undertaken in general accordance with the following schedule:

- Year 1 – 60% of work
- Year 2 – 20% of work
- Year 3 – 20% of work

The plan is to be prepared in accordance with both the structure and content of the following guidelines:

- Lismore City Council (2010), *Guidelines for the preparation of Vegetation Management Plans*. Lismore City Council, Lismore, NSW

The plan is to be prepared and implemented by person(s) with appropriate knowledge, qualifications and experience in current best practices for indigenous vegetation rehabilitation and management as detailed in the above guidelines.

It is the responsibility of the Applicant to:

- Arrange for Council's Ecologist and/or Landscape Architect to the review of the plan
- Arrange for any relevant Council inspections
- Pay all necessary inspection and administration fees associated with the review and inspection.

The plant species utilised in all regeneration and/or revegetation areas as well as any landscaped buffers should be locally indigenous rainforest species chosen from the plant species listed in the following guidelines and sourced from seed stock of local provenance:

- Lismore City Council (2007), *Landscape Guidelines for Lismore City Council*.

The plan at a minimum must incorporate the items detailed below:

- Establishment of riparian corridors

A riparian corridor is to be established on both sides of the third order stream located in the eastern section of existing Lot 123 DP 731488. In addition to the width of the channel, the minimum width of the riparian corridor for this stream is to be 30m as measured from the top of the highest bank and on both sides of the stream. The riparian corridor is to be enclosed by a stock exclusion fence.

A riparian corridor is to be established on both sides of the second order stream located in the western section of the existing Lot 123 DP 731488 and Lots 1,2 and 3 DP 588282. In addition to the width of the channel, the minimum width of the riparian corridor for this stream is to be 20m as measured from the top of the highest bank and on both sides of the stream. The riparian corridor is to be enclosed by a stock exclusion fence.

The riparian corridor(s) are to be regenerated/revegetated within the stream channel as well as in both the Core Riparian Zone and the Vegetated Buffer in accordance with the following guidelines:

- DWE (2008a). *Guidelines for controlled activities: Riparian Corridors*. Department of Water & Energy NSW, Sydney, NSW.
- Raine & Gardiner (1997). *Revegetating Streams in the Richmond Catchment: A Guide to Species and Planting Methods*. Department of Land and Water Conservation NSW, Maitland, NSW. (Contained in Lismore City Council (2007). *Landscape Guidelines*. Lismore City Council, Lismore, NSW).

The areas to be regenerated and/or revegetated are to be planted with a mixed selection of pioneer and mature phase rainforest plant species

- Regeneration of native vegetation

For all the lots that form part of the 'Cameron Road Planning Agreement' a plan for the regeneration and/or revegetation of rainforest within the areas of vegetation identified as:

- Community 1 Closed Forest (Camphor Laurel)
- Community 2 Closed Forest (Camphor Laurel/Broadleaved Privet +/- Rainforest regrowth)
- Community 3 Closed Forest (Rainforest Regrowth) – Clumps 1, 2, 3 and 5 are to be incorporated in the Vegetation Management Plan.

Areas to be regenerated and/or revegetated are to be planted with a mixed selection of pioneer and mature phase rainforest plant species

The general location of these vegetation communities are detailed in the following reports:

- Colvin, I. (2010), *Ecological Assessment of various allotments of DA 5.2010.77.1, McLeans Ridges – A report for Ardill Payne & Partners*. Australian Wetland Consulting Pty Ltd, Byron Bay, NSW.
- Place Environmental (2008), *McLeans Ridges Rezoning – Comments on amended layout*. Place Design Group Pty Ltd, Fortitude Valley Qld.

- Retention and protection of significant vegetation within a management area

The following vegetation, trees and threatened plant species are to be retained and protected within a management area enclosed by a stock exclusion fence:

- Proposed Lot 2A Northern corner, adjacent to proposed Road 1 *Ficus sp.* trees
- Proposed Lot 4 – South-west corner, adjacent to proposed Road 1 *Floydia praealta* (Ball nut tree) and rainforest regrowth vegetation
- Proposed Lot 30 – South-west of the proposed lot Clump 5 Community 3 Closed Forest (Rainforest Regrowth), *Floydia praealta* (Ball nut tree) and *Owenia cepiodora* (Onion Cedar)
- Proposed Lot 31 – Middle of the subject site (between proposed Lots 22/23 and 32) *Gossia fragrantissima* (Sweet Myrtle), two specimens
- Proposed Lot 300 and 402 – Along lot boundary Clump 7 Closed Forest (Rainforest Regrowth)

Each management area is to be regenerated and/or revegetated with a mixed selection of pioneer and mature phase rainforest plant species. The general location of the above vegetation, trees and threatened plant species are detailed in the following reports:

- Australian Wetlands Consulting Pty Ltd (2010), *Ecological Assessment of various allotments of DA 5.2010.77.1, McLeans Ridges – A report for Ardill Payne & Partners*. Australian Wetland Consulting Pty Ltd, Byron Bay, NSW.
- Place Environmental (2008), *McLeans Ridges Rezoning – Comments on amended layout*. Place Design Group Pty Ltd, Fortitude Valley Qld.

- Control of listed weeds

The plan is to incorporate a program for weed removal and ongoing weed management for all the lots that form part of the Cameron Road Planning Agreement.

The plan should include the removal of all woody weeds (including the planted *Corymbia torelliana* (Cadagi) windbreak located in proposed Lot 27, 30 and 31), as well as control any exotic plant species that have been:

- Declared noxious under the Noxious Weeds Act 1993 in the control area of the Far North Coast County Council (Far North Coast Weeds)
- Listed as Environmental Weeds by Far North Coast Weeds
- Declared as Weeds of National Significance by the Australian Weeds Strategy.

Weeds are to be controlled according to current best practice and in accordance to the control requirements for each of the five classes of noxious weeds identified in the Act.

Pursuant to Clause 9.1.2 of the '*Cameron Road Planning Agreement*', any woody weeds located in the riparian corridors of the eastern and western streams noted in 'Establishment of riparian corridors' section above are to be controlled by non-mechanical means only.

- Landscaping of the Cameron Road reserve

The Cameron Road reserve is to be planted with rainforest trees and shrubs at five metre spacing's were possible (depending on driveway and fencing) or as otherwise approved by Council.

Both proposed and conditioned requirements around landscaping along all roads the subject of the development will be undertaken to improve the streetscape with species that will not unreasonably interfere with the natural monitoring of public spaces or create bush fire hazard.

Where necessary, plants are to comprise low level shrubs that will not obstruct sight lines and will not provide concealment areas or predator traps.

- Landscaping of the Community Lot

In regard to the landscaping for the community lot as required under the 'Planning Agreement' an individual landscape plan (unless submitted as part of one overall revegetation/landscape plan) shall be submitted to the Council for approval prior to commencement of subdivision works. The Landscape plan must include the following community lot/park embellishments:

- picnic shelter with concrete slab floor
- tables
- seating
- rubbish bin
- play ground equipment
- rain water tank and tap
- proposed location for planted shrubs and trees

*Note: The construction and embellishment of the community lot/park and the associated landscaping of the lot/plan must be completed **prior to the registration of the fiftieth (50) lot.***

- Establishment of landscaped buffers

A 5m wide landscaped buffer is to be established along the street frontages of proposed Lots 2a, 2b, 4-26, 28, 100, 101, 105, 106, 209, 300-302 to proposed roads 1, 2, and 3. The landscaped buffer is to be planted with rainforest trees and shrubs at five metre spacing's were possible (depending on driveway and fencing) or as otherwise approved by Council.

The landscape/vegetation plan must also include a 5m wide planted buffer along property boundaries for those lots bordering on surrounding grazing land.

- Plantings within regeneration areas, revegetation areas and landscaping

For all plantings associated with the regeneration of native vegetation, revegetation of cleared areas and landscaping, the plan should detail:

- The planting schedule, including botanical name, common name, container size and quantity of all plant species proposed for planting
- The methods to be employed for soil and bed preparation as well as mulching
- How plantings will be protected from grazing by both stock and wildlife
- An ongoing maintenance schedule, including a program for weed suppression and removal
- The planted buffer shall comply with the requirements as detailed in Chapter 11 (Buffer Areas) of Councils DCP 2007

**Reason:** *To ensure that the Landscape/Vegetation Management Plan can be assessed in accordance with Lismore City Council guidelines. To screen new and existing dwellings within the proposed development from the street frontage and improve the amenity of the local area. To ensure that the width of proposed riparian corridors meet NSW State Government guidelines. To ensure appropriate control of weed species on the subject site. To ensure protection of water bodies, wetlands bushland or environmentally significant land from soil erosion and sediment deposition.*

- 64 **Prior to the commencement of subdivision works** the Applicant is to submit to Council for approval a monitoring report relating to the implementation of the approved Vegetation Management Plan shall be submitted to Council following the completion of primary planting and then at annual intervals until the end of the three (3) year maintenance period.

A final monitoring report shall also be submitted to Council upon completion of the maintenance period.

It is the responsibility of the Applicant to arrange for the relevant Council inspections with Council's Ecologist and/or Landscape Architect and pay all necessary inspection and administration fees associated with that inspection.

**Reason:** *To ensure that implementation of the approved Vegetation Management Plan meets the approved works schedule and performance criteria established in the plan.*

- 65 Subject to compliance with the recommendations and performance criteria detailed within the Council approved Vegetation Management Plan, the landscape/vegetation works are to be undertaken in general accordance with the schedule detailed in the approved plan.

If any of the vegetation comprising the landscaping works dies or is removed, it is to be replaced with vegetation of the same species, and similar maturity as the vegetation which has died or was removed.

It is the responsibility of the Applicant to arrange for the relevant Council inspections with Council's Ecologist and pay all necessary inspection and administration fees associated with that inspection.

**Reason:** *To ensure that implementation of the approved Vegetation Management Plan meets the approved works schedule and performance criteria established in the plan.*

- 66 **During the subdivision construction works** the Applicant is to ensure that all rare and threatened plant species identified of the proposed development are to be protected from damage during regeneration and weed control works. Trees/plants are to be clearly identified and, where appropriate, protected by securely installed fencing appropriate to the local conditions. Trees/plants may be fenced off in clusters where it is not practical to fence off individual trees.

The general location of rare and threatened plant species to be protected are detailed in the following reports:

- Australian Wetlands Consulting Pty Ltd (2010), *Ecological Assessment of various allotments of DA 5.2010.77.1, McLeans Ridges – A report for Ardill Payne & Partners.* Australian Wetland Consulting Pty Ltd, Byron Bay, NSW.
- Place Environmental (2008), *McLeans Ridges Rezoning – Comments on amended layout.* Place Design Group Pty Ltd, Fortitude Valley Qld.
- Place Environmental (2008), *Ecological Assessment for upgrade of Cameron Road, McLeans Ridges.* Place Design Group Pty Ltd, Fortitude Valley Qld.

**Reason:** *To ensure that rare and threatened plant species are protected during works.*

67 **During the Cameron Road realignment works** the Applicant is to ensure that tree removal and any pruning works is completed by a fully qualified and insured Arborist (AQF level 3 qualifications as a minimum). In particular it is required that:

- Works are conducted in such a way as to ensure surrounding native vegetation, structures and boundary fences on the same or adjoining lots are not damaged.
- Any pruning work is undertaken in accordance with the Australian standard for the pruning of amenity trees.
- The currencies of all insurances are checked by the Applicant before work commences.
- All existing locally indigenous native trees and areas of native vegetation identified for retention on approved plans of the proposed development shall be protected from damage during works. Trees/plants are to be protected by 1800mm high fencing, securely installed beneath the outer canopy of any tree to be retained. Trees/plants may be fenced off in clusters where it is not practical to fence off individual trees.
- There shall be no storing materials, washing machinery or changes to existing soil levels within the fenced areas
- That no trenching or fill will occur within 10 times the trunk diameter of the tree and no roots greater than 50mm in diameter to be damaged or cut without qualified Arborist assessment of affects on retained trees anchorage and health.

The Applicant will receive two copies of the consent, one to be retained by the Applicant and one to be given to the contractor if engaged to carry out work.

**Reason:** *To ensure that native trees and vegetation are protected during works. To ensure structural integrity of retained trees.*

68 **During the subdivision construction works** the Applicant is to ensure that adequate soil erosion and sediment control measures are to be installed and maintained such that the clearing of any vegetation does not result in any increase in sediment deposition into any water body, wetland, bushland or environmentally significant land.

All disturbed areas are to be progressively stabilised and/or revegetated so that no areas remain exposed to potential erosion damage for a period of greater than seven (7) days.

Soil erosion and sediment control measures are to be adequately maintained during any clearing works and until the establishment of vegetation.

**Reason:** *To ensure protection of water bodies, wetlands bushland or environmentally significant land from soil erosion and sediment deposition.*

69 **During the subdivision construction works** the Applicant is to ensure that cleared, weed free native vegetation (timber, small branches and leaf litter) is to be mulched, reserved and stockpiled for re-use in rehabilitation works.

Mulch generated from any plant any exotic plant species declared noxious under the Noxious Weeds Act 1993 in the control area of the Far North Coast County Council (Far North Coast Weeds), listed as an Environmental Weed by Far North Coast Weeds, or plants declared as Weeds of National Significance by the Australian Weeds Strategy is not be used on site. Such mulch is to be removed from the site and disposed of appropriately and in accordance with legislative requirements.

**Reason:** *To ensure that weed species propagules are not dispersed by regeneration/revegetation works.*

70 **Prior to release of the Subdivision Certificate** and pursuant to Clause 9 of the '*Cameron Road Planning Agreement*' the Applicant is to lodge with Council a security bond to the value of \$172,500 to ensure that all works associated with the approved Vegetation Management Plan have been conducted.

Pursuant to Clause 9.2 of the '*Cameron Road Planning Agreement*' and subject to compliance with the recommendations and performance criteria detailed within the Vegetation Management Plan, the bond will be fully refunded after a period of three (3) years according to the following schedule:

- On satisfactory completion of rehabilitation works – 16%
- Upon satisfactory establishment of the rehabilitation works three (3) years after completion – 84%

**Reason:** To ensure compliance with the recommendations and performance criteria contained in the approved Vegetation Management Plan.

- 71 **Prior to the release of the Subdivision Certificate** the Applicant is to demonstrate compliance with the recommendations and performance criteria detailed within the Vegetation Management Plan and pursuant to the schedule of works detailed in the conditions above. The initial phase of works detailed in the Vegetation Management Plan approved by Council is to be completed in compliance with the recommendations and performance criteria detailed within the plan.

**Reason:** To ensure compliance with the recommendations and performance criteria contained in the approved Vegetation Management Plan.

- 72 **The Subdivision Certificate plan** submitted to council must be accompanied by an instrument under Section 88b of the Conveyancing Act 1919. The instrument is to include the following restrictions:

a) **All proposed lots**

Lismore City Council is the only entity that has the power to vary, modify or extinguish any of the following restrictive covenants on the title;

- A 5 m wide 'no-build' area is to be maintained along the side boundaries of the lot;
- The land shall be managed in accordance with the Vegetation Management Plan approved by Council;
- For the purpose of conducting and/or maintaining works associated with the plan, access shall be provided to person(s) acting on the plan for the three (3) year term of the plan;
- In accordance with the above plan for the subject site, the land is to be maintained such that there is a maximum of 5% Environmental Weed cover (as listed by North Coast Weeds) and the land is 100% free of Noxious Weeds declared within the Lismore Local Government Area;
- With the exception of the removal and/or pruning of dead, damaged and/or diseased trees/tree limbs, locally indigenous native trees on the lot are not to be removed, damaged or in any way interfered with;
- A tree removal/tree pruning application must be made to Council and approval for removal/pruning must be granted prior to the removal of a tree/tree limb;
- No clearing of native vegetation, altering of native vegetation structure or damage to native vegetation is permitted within the lot except as required to remove Noxious Weeds, Environmental Weeds or other exotic plant species. Native vegetation includes any species of vegetation that existed in the Lismore Local Government Area before European settlement including trees, saplings, shrubs, scrub, understorey, groundcover or plants in a wetland. Clearing is defined as cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning native vegetation.

b) **Proposed Lots 2a, 2b, 4-26, 28, 100, 101, 105, 106, 209, 300-302**

A 5m wide landscaped buffer along the street frontages to proposed road 1, 2, or 3. is to be established, retained and maintained in perpetuity by the owner(s).

c) **Proposed Lots 2A, 4, 30, 31, 300 and 402**

A management area approved by Council is to be established, retained and maintained in perpetuity as a conservation area by the owner(s). This management area is to be enclosed by a stock exclusion fence. Fencing shall be erected and maintained in working order and shall not be removed, damaged or allowed to fall into disrepair at any time;

d) **Existing Lot 123 DP 731488 (Proposed Residue Lot 500)**

- With the exception of any approved stock crossing points, a riparian corridor encompassing the third order unnamed stream located in eastern portion of the lot is to be established, retained and maintained in perpetuity as a conservation area by the owner(s);
- In addition to the width of the channel, the minimum width of the riparian corridor is to be 30 m as measured from the top of the highest bank and on both sides of the stream;
- The riparian corridor is to be enclosed by a stock exclusion fence. Fencing shall be erected and maintained in working order and shall not be removed, damaged or allowed to fall into disrepair at any time.

## e) Proposed Lots 16, 17 and 31

- With the exception of any approved stock crossing points, a riparian corridor encompassing the second order unnamed stream located on the lot is to be established, retained and maintained in perpetuity as a conservation area by the owner(s);
- In addition to the width of the channel, the minimum width of the riparian corridor is to be 20 m as measured from the top of the highest bank and on both sides of the stream;
- The riparian corridor is to be enclosed by a stock exclusion fence. Fencing shall be erected and maintained in working order and shall not be removed, damaged or allowed to fall into disrepair at any time.

**Reason:** To ensure that the conservation area is kept free of stock and is maintained in perpetuity by the owner of the subject site.

73 **The subdivision certificate plan submitted to council** is to identify the following features:

- a) 5 m wide 'no build' zone – All proposed lots - Identify a 5 m wide 'no-build' zone along the side boundaries of each lot.
- b) 5m wide landscaped buffer – Lots 2a, 2b, 4-26, 28, 100, 101, 105, 106, 209, 300-302 Identify a 5m wide landscaped buffer along the street frontage to proposed road 1, 2, or 3.
- c) Conservation area – Proposed Lot 2A, 4, 30, 31, 300 and 402 - Identify a conservation area as detailed in the Vegetation Management Plan approved by Council.
- d) Riparian corridor – Lot 123 DP 731488  
As detailed in the Vegetation Management Plan approved by Council, identify:
  - A riparian corridor encompassing the third order unnamed stream located in eastern portion of the lot. In addition to the width of the channel, the minimum width of the riparian corridor is to be 30 m as measured from the top of the highest bank and on both sides of the stream;
  - The location of any approved stock crossing points.
- e) Riparian corridor – Proposed Lots 16, 17 and 31  
As detailed in the Vegetation Management Plan prepared approved by Council, identify:
  - A riparian corridor encompassing the second order unnamed stream located in eastern portion of the lot. In addition to the width of the channel, the minimum width of the riparian corridor is to be 20 m as measured from the top of the highest bank and on both sides of the stream;
  - The location of any approved stock crossing points.

**Reason:** To ensure compliance with the Section 88B instrument requirements imposed onto the development consent.

## INTEGRATED DEVELOPMENT GENERAL TERMS OF APPROVAL

### NSW OFFICE OF WATER

#### CONTROLLED ACTIVITY APPROVAL CONDITIONS UNDER THE WATER MANAGEMENT ACT, 2000

##### Plans, standards and guidelines

1 These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to and provided by Council.

Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.

2 Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.

3 The consent holder must prepare or commission the preparation of:

- (i) Vegetation Management Plan
- (ii) Erosion and Sediment Control Plan
- (iii) Soil and Water Management Plan

- 4 All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The plans must be prepared in accordance with the NSW Office of Water guidelines located at: [www.dwe.nsw.gov.au/water\\_trade/rights\\_controlled.shtml](http://www.dwe.nsw.gov.au/water_trade/rights_controlled.shtml)

- (i) The Vegetation Management Plans
- (ii) Riparian Corridors
- (iii) Instream works
- (iv) Watercourse crossings

The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water

### **Rehabilitation and maintenance**

- 5 The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.

### **Bridge, causeway, culverts, and crossing**

- 6 The consent holder must ensure that the construction of any bridge, causeway, culvert or crossing does not result in erosion, obstruction of flow, destabilisation or damage to the bed or banks of the river or waterfront land, other than in accordance with a plan approved by the NSW Office of Water.

### **Disposal**

- 7 The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.

### **Erosion control**

- 8 The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.

### **Excavation**

- 9 The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.

### **Maintaining river**

- 10 The consent holder must ensure that (i) river diversion, realignment or alteration does not result from any controlled activity work and (ii) bank control or protection works maintain the existing river hydraulic and geomorphic functions and (iii) bed control structures do not result in river degradation other than in accordance with a plan approved by the NSW Office of Water.

### **River bed and bank protection**

- 11 The consent holder must establish a riparian corridor along the Unnamed watercourses in accordance with a plan approved by the NSW Office of Water.

## **NSW INDUSTRY & INVESTMENT**

### **DREDGE AND RECLAMATION APPROVAL UNDER S198-202 OF THE FISHERIES MANAGEMENT ACT, 1994**

#### **General Terms of Approval**

- A permit under s198-202 of the Fisheries Management Act 1994 for dredge and reclamation activities be obtained prior to commencement of the works associated with installation of the stock crossings.
- That the invert of the stock crossings be set at bed level of the natural waterway to maintain the free passage of fish fauna and avoid deleterious impacts on the waterway.
- Environmental safeguards (silt curtains, booms etc.) are to be utilised during construction / installation of the rock armouring and outlets to ensure there is no escape of turbid plumes into the aquatic environment. Erosion and sediment controls must be in place prior to commencing, during and after works.
- Sand, gravel, silt, topsoil or other materials must not be stockpiled within 50 metres of the water unless surrounded by sediment control measures.

Lismore City Council

Meeting held 8 March 2011 - Development Application 5.2010.77 - Cameron Road, McLeans Ridges

## NSW RURAL FIRE SERVICE

## BUSH FIRE SAFETY AUTHORITY APPROVAL UNDER THE RURAL FIRES ACT, 1997

## General Terms of Approval

## Asset Protection Zones

1 At the issue of subdivision certificate and in perpetuity, the land surrounding the existing dwellings (if to remain) on proposed Lots 1 & 37, to a distance of 10 metres or to the property boundary, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

## Water and Utilities

2 Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

## Access

3 Public road access shall comply with the following requirements of section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'. In particular:

- Road(s) shall be two wheel drive, all weather roads.
- Public roads have a cross fall not exceeding 3 degrees.
- Curves of roads (other than perimeter roads) are a minimum inner radius of 6 metres.
- The minimum distance between inner and outer curves is 6 metres.
- There is a minimum vertical clearance to a height of 4 metres above the road at all times.
- The capacity of road surfaces and bridges is sufficient to carry fully loaded fire fighting vehicles (approximately 15 tonnes for areas with reticulated water, 28 tonnes or 9 tonnes per axle for all other areas). Bridges clearly indicate load rating.
- Public roads directly interfacing the bush fire hazard vegetation provide roll top kerbing to the hazard side of the road.
- Dead end roads shall incorporate a 12 metre outer radius turning circle and be clearly signposted as a dead end.

## Design and Construction

4 The existing dwellings on proposed Lots 1 & 37 (if to remain) are required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen. Where applicable, this includes any sub floor areas, openable windows, doors, vents, weepholes and eaves.

## INFORMATION TO APPLICANTS

## ADVISORY NOTES

**NOTE 1:** In regard to any enquiries in relation to compliance with the above General Terms of Approval imposed by NSW Rural Fire Service, please contact Jason Hulston on 02 8741 5175.

**NOTE 2:** In regard to any enquiries in relation to compliance with the above General Terms of Approval imposed by NSW Industry & Investment, please contact Patrick Dwyer on 02 6626 1397.

**NOTE 3:** In regard to any enquiries in relation to compliance with the above General Terms of Approval imposed by NSW Office of Water, please contact Patrick Pahlow on 02 6676 7382.

**NOTE 4:** The Subdivision Certificate shall not be released by Council until all conditions of Development Consent Notice 5.2010.77.1 as imposed by Lismore City Council have been complied with to the satisfaction of Council.

**NOTE 5:** Approval is required for all retaining wall structures (including rockwalls, sleepers, crib walls and the like) proposed to be erected on the land.

**NOTE 6:** Earthworks shall not take place without prior Council approval.

**NOTE 7:** Benching (ie cutting, filling or levelling) of the land to create building platforms does not form part of this approval and will only be considered in conjunction with a development application to build on the land.

**NOTE 8:** All lots created shall be maintained by regular mowing, slashing or the like. Maintenance shall prevent excessive growth of vegetation to reduce fire hazard and/or vermin.

**NOTE 9:** Subdivision and civil works are subject to a levy under the Building and Construction Industry Long Service Payments Act 1986 for works valued over \$25,000. It is the responsibility of the proponent to satisfy Council that where a levy is applicable, payment has been made prior to the release of the Subdivision Certificate.

**NOTE 10:** The Subdivision Certificate shall not be released by Council until all conditions of the Development Consent have been complied with to the satisfaction of Council.

**NOTE 11:** Council's Planning Services Section shall certify the satisfactory completion of all civil works prior to release of a Subdivision Certificate. Bonding arrangements for construction of civil works shall not be accepted. Exceptions shall only be for maintenance of work periods and/or by written approval of Council.

# Report

|                                      |  |
|--------------------------------------|--|
| <b>Subject</b>                       | <b>Development Application 5.2010.123.1 - Dunoon Subdivision</b> |
| <b>TRIM Record No</b>                | BP11/74:DA10/123-02  |
| <b>Prepared by</b>                   | Senior Development Assessment Officer (Planning)                 |
| <b>Reason</b>                        | For determination by Council.                                    |
| <b>Community Strategic Plan Link</b> | Provide Sustainable Land-use Planning                            |

## Overview of Report

In late 2006 Lismore City Council received a Community Title subdivision Development Application (DA5.2006.647) for the creation of 61 lots and a Wastewater Management System on the subject land. This Development Application (DA) was publicly exhibited and received a significant number of public objection. Through the assessment process the DA was subject to a number of amendments (reducing the number of lots to 48) and was eventually withdrawn in February 2009. Following the withdrawal of DA5.2006.647, representatives on behalf of the owner of the subject land engaged in consultation with the Dunoon community in relation to a revised subdivision proposal for the land, which is essentially the proposal which forms the subject DA.

The current DA seeks development consent to subdivide the subject land into twenty four (24) lots - comprising twenty three (23) village residential lots, one (1) residual rural lot, road construction, stormwater works, earthworks, vegetation removal, landscaping, regeneration works, demolition of dairy bails and land dedication.

The subject DA was publicly exhibited and in response Council received 6 submissions, each objecting to the DA.

The key issues associated with the DA include:

- the creation of proposed Lot 23 and associated noise and lighting impacts;
- conflict between soccer balls from Balzer Park and proposed Lot 11;
- on-site effluent disposal for each of the lots;
- extension of part of proposed Lots 6 to 11 into the 1(b) Agricultural Zone; and
- proposed land dedication and associated off-set s94 contributions.

A detailed assessment of the proposed development indicates that the potential adverse impacts of the proposed development are able to be adequately addressed by the proposed conditions of development consent. In addition, it is considered that Council and the landowner need to give further, more detailed, consideration to the proposed land dedication prior to determining to accept it.

The subject DA is being reported to Council given the past development application history on the site and the submissions received in relation to the previous and current DA.

## Background

### **Development Application 5.2006.647**

On 9 October 2006, Council received a DA (DA5.2006.647), lodged on behalf of Hardie Holdings, for a Community Title subdivision including the creation of 61 lots and a Wastewater Management System (WMS).

The DA was publicly exhibited and a significant amount of community objection was received. The most significant of the issues associated with the DA related to the proposed Wastewater Management System and density of the development in relation to existing character.

An amended application was submitted to Council to address the various concerns including an assessment of the land capability for disposal of effluent from the entire village. Importantly the application was amended to a Torrens title development and proposed to dedicate the Waste Management System to Council.

Council staff reviewed the land capability assessment for the proposed disposal fields and determined that there was insufficient capacity in the disposal fields to cater for the entire village. Further amendment of the DA was required to alter the subdivision back to Community Title. The amended DA contained a Social Impact Assessment and this was reviewed and additional information sought from the applicant.

There was ongoing negotiation between staff and the developer and a series of meetings between Council staff and a representative group from the Dunoon community over the two years that the DA was in with Council.

As a result of the meetings between staff and the Applicant, the DA was further amended. This amendment was publically exhibited from 2 January 2008 until 1 February 2008. Council received a total of 37 submissions, objecting to the DA, which included:

- 35 submissions from individuals;
- 1 submission from the Dunoon and District Sports Club; and
- 1 submission from the Dunoon Community Group which was supported by a petition signed by 183 people.

Consultants were engaged to review the submissions made during exhibition period, technical aspects of the Wastewater Management System and the stormwater modelling.

Following a review of the amended application, additional information was then sought from the Applicant. The requested documentation and further amended plans were lodged with Council. The amended DA included:

- a Community Title subdivision consisting of 48 residential lots and 1 community lot for the Wastewater Management System and stormwater treatment;
- one lot to be created as a public reserve and added to Balzer Park;
- one village lot;
- one residue rural lot; and
- roads, drainage, water and sewer infrastructure.

The three dominant issues associated with the DA were:

1. compatibility of the subdivision with the existing village;
2. operation of the Wastewater Management System; and
3. community objection.

The amended DA was in the process of being assessed and reported to Council when in February 2009 it was withdrawn by the Applicant.

## Community Consultation for the Revised (Current) Subdivision Proposal

Following the withdrawal of DA5.2006.647, representatives on behalf of the owner of the subject land engaged in consultation with the Dunoon community in relation to a revised subdivision proposal for the land. As part of the subject DA5.2010.123, the Applicant wrote the following to Council outlining the nature and extent of their community consultation:

*“Given the history associated with past development applications on the site, the proponent sought to commence a more embracing community consultation process in order to achieve greater knowledge of the local issues and secondly to provide the community greater access and involvement in the development of the subdivision layout.*

*The initial consultation process was undertaken with the Dunoon Community Group. Several meetings were held with the Group to outline the new proponents for the development, the desire to provide a less dense subdivision than previously proposed and advising of the future ability to view and comment on the Draft Subdivision Plan.*

*Upon the completion of the detailed site analysis, a Draft Subdivision Plan was provided to the Community Group "in confidence" to obtain the groups initial views to the design. The initial views of the group were positive with respect to the density of the estate, however several issues associated with the interaction of the subdivision with the operation of the sports club were raised. The issues associated with the creation of Lots 11 and 23 and potential conflicts with noise, lighting and access to soccer balls entering Lot 11.*

*In response, the proponents were in agreement to delete a lot through amending the subdivision layout through the consolidation of Lots 11 and 12 into a single lot (now Lot 11) in order to provide an increased setback for buffer planting to the sports field. In relation to Lot 23, we advised the Dunoon Community Group the proponent was agreeable to enter into an alternative use of the land and in this respect, the opportunity for the sports club to utilise the land for its purposes was raised.*

*Upon the completion of a draft subdivision design, contact was made with the Dunoon Gazette in order to place an article concerning the subdivision and seek feedback from the distribution area. Attachment 5 of the Statement of Environmental Effects provides a copy of the article in addition to the email seeking publication of the article to the publisher.*

*Through the publication of the article, we received two comments from residents. We note the comments were received from 2 of the people who provided submissions to Lismore City Council during the public exhibition of the development application. Representatives from Newton Denny Chapelle liaised with the two residents of Dunoon to better understand their issues in order to attempt to have them resolved. We note the issues raised were commensurate with those raised with Dunoon Community Group with the exception of the flood zone query which has been addressed in the technical documentation lodged with Lismore City Council.*

*The proponent has sought to interact with the community prior to the lodgement of the development application given the high level of concern with previous proposals for the land. The initiative of the proponent has been applauded by members of the community and in we believe is reflected in the significant reduction in submissions received by Lismore City Council”.*

The current DA5.2010.123 was lodged with Council on 7 April 2010.

## Description of the Site and Locality

The subject land is known as Lot 3 DP 1125175, being 5 Donaghue Street, Dunoon. The proposed subdivision (the site) is confined to the western part of the subject land.

The site is located east of the main street of the village (James Street) and adjoins:

- village allotments to the west;
- the Dunoon Sports fields and village allotments to the north and north-west;
- Rural residential lots (Avondale Estate) and the Dunoon Public School to the south; and
- the rural part of the subject land to the east.

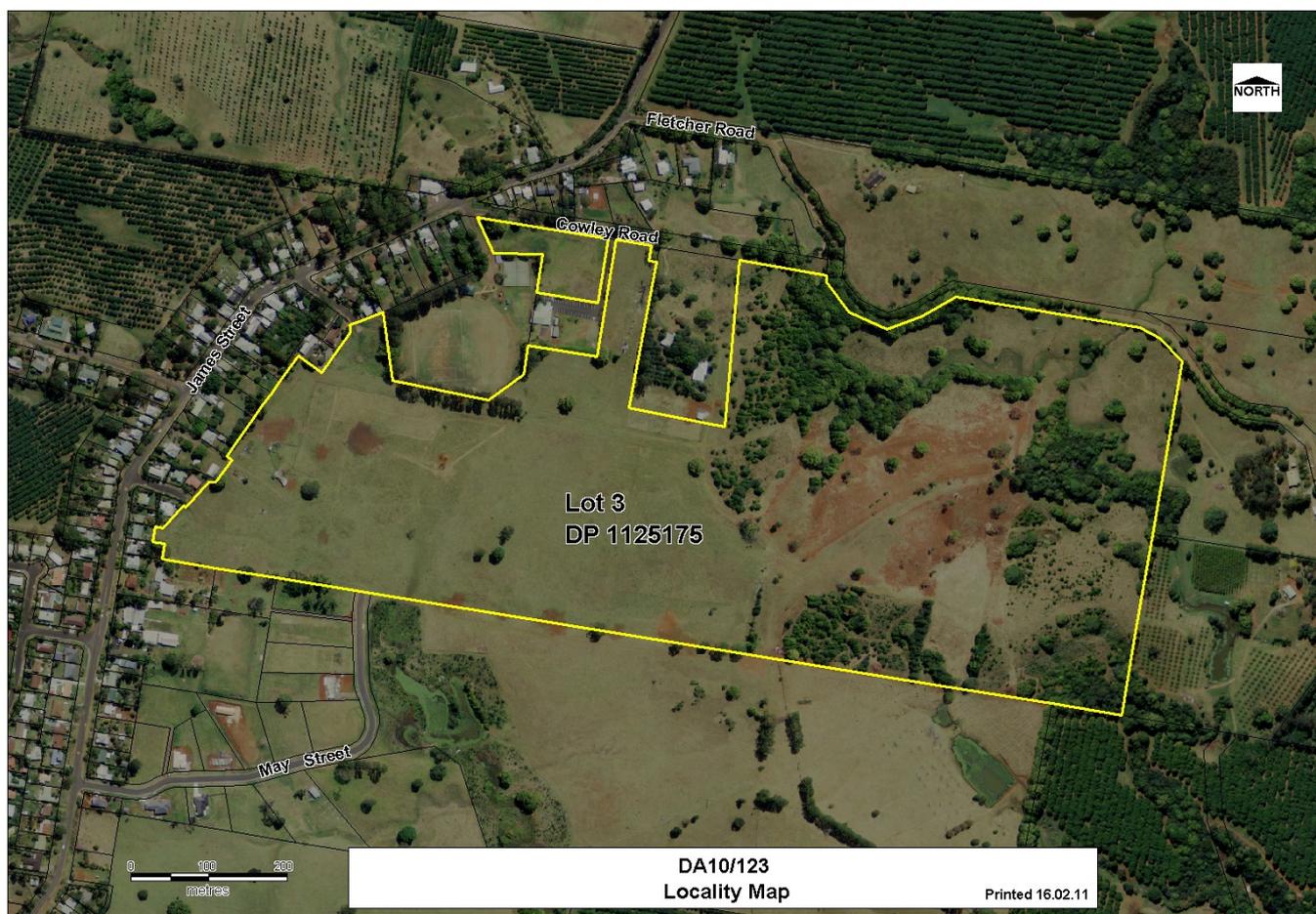
The subject land has an area of 48.35 hectares and is currently grazing land with no structural improvements other than a dairy bails.

The site is essentially cleared with the exception of scattered trees, including a large fig tree.

A dry gully bisects the subject land running from the sports oval in the north through the subject land down to the south where it drains into a large dam on a neighbouring property (Lot 13 DP 1122432), which defines the commencement of the watercourse known as Numulgi Creek.

The site generally falls from the western and northern boundaries (adjacent to James Street) down to the dry gully which bisects the site.

## Locality Map



## Relevant Development History

### Development Application 5.2006.291

The subject land has been party to a subdivision application (DA5.2006.291) to create one (1) new village lot and a rural boundary adjustment. Council approved the DA on 5 July 2006 with the Deposited Plan being registered on 29 May 2008.

### Development Application 5.2006.647

As detailed above in this report the site was also subject to DA5.2006.647 which, proposed a Community Title subdivision including the creation of 61 lots and a wastewater system. The DA was later amended to reduce the number of lots to 48, however was subsequently withdrawn by the Applicant in February 2009.

### Development Application 5.2010.189

At around the same time the subject DA (5.2010.123) was lodged, the Applicant also lodged DA 5.2010.189 for a boundary adjustment between the subject land and adjoining Lot 4 DP 791028, No 6 May Street Dunoon. Specifically the proposed boundary adjustment seeks to transfer approximately 500m<sup>2</sup> from the subject land to adjoining Lot 4 DP 791028. The result of the boundary adjustment subdivision is that the subject land has its area reduced from 48.35ha to 48.3ha and adjoining Lot 4 DP 791028 has its area increased from 900m<sup>2</sup> to 1,400m<sup>2</sup>.

The land subject of the boundary adjustment is nominated as a road reserve within the subject DA5.2010.123. It was intended that this DA was determined under delegated authority at around the same time the subject DA5.2010.123 was determined.

## Description of Proposal

Development consent is sought to subdivide the subject land into twenty four (24) Torrens Title lots - comprising twenty three (23) village residential lots, one (1) residual rural lot, road construction, stormwater works, earthworks, vegetation removal, landscaping, regeneration works, demolition of rural outbuildings and land dedication.

In particular, the proposal includes:

- the twenty three (23) village residential lots range in size from 1,879m<sup>2</sup> to 0.97ha and are serviced by individual on-site waste management systems.
- the one (1) residual rural lot has an area of 41.06ha and retains the benefit of a dwelling entitlement under the provisions of the Lismore Local Environmental Plan 2000 (LEP).
- the construction and dedication of a public road system linking May Street and Donaghue Street.
- the widening of reserve within May Street.
- the nomination of approximately 1ha of land for investigation by Council into its dedication, which would increase the size of the Dunoon Sports Field. The proposal seeks to have the applicable s94 developer contributions off-set by the value of the land to be dedicated to Council.
- regeneration works to the existing gully.
- stormwater management works, incorporating the dry sediment basin and the partially filling the existing drainage lines and piping of the same.
- the establishment of buffer plantings as part of proposed Lot 11 adjacent to the Dunoon Sports fields.
- the removal of nominated vegetation.
- the demolition of dairy bails.

**Attachments 1 – 6** include the plans of the proposed subdivision.

## Statutory Controls

### Lismore LEP 2000

- Zoning – 2(v) Village Zone and 1(a) General Rural Zone.
- Clause 11 – Subdivision of land generally.
- Clause 18 – Preservation of Trees.
- Clause 19 – Development of land nearing adjoining zones.
- Clause 20 – Buffer zones to avoid potential land use conflicts.
- Clause 36 – Subdivision and development in rural zones.
- Clause 51 – Subdivision of land in Zones 2(a) and 2(v).

Draft Lismore LEP 2010  
Lismore Contributions Plan

### Environmental Planning and Assessment Act 1979

SEPP No. 44 – Koala Habitat Protection

SEPP No. 55 – Remediation of Land

SEPP (Rural Lands) 2008

North Coast REP 1988

Integrated Development

Local Development

## Policy Controls

Lismore DCP

1.8.2 Access to Battleaxe Type Subdivisions

1.8.4 Undergrounding of Electricity Mains and Provision of Street Lighting

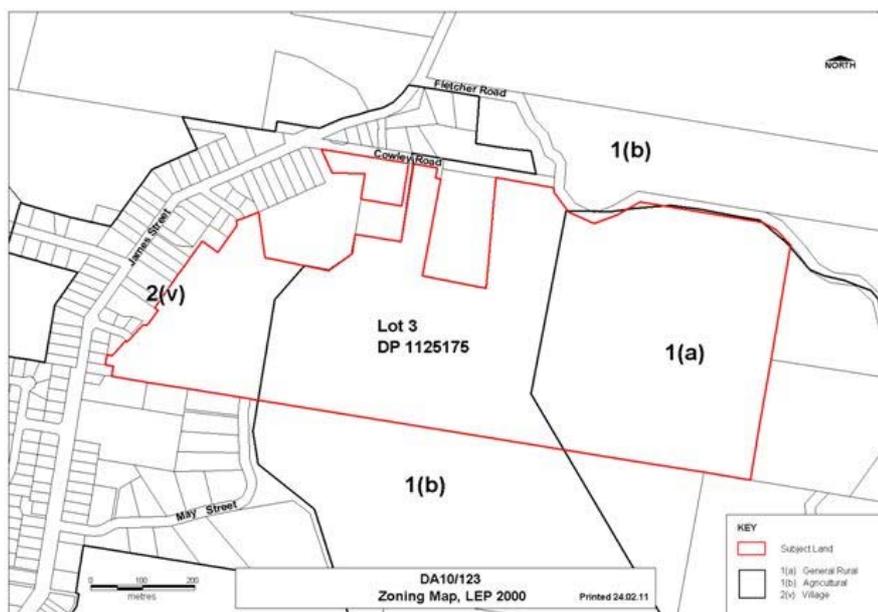
1.8.6 Undergrounding of Telephone Plant in Subdivisions

5.2.10 Equity in Access and Provision of Facilities to Public Spaces

5.2.30 Social Impact Assessment

5.17.8 Sustainability, Viability and Amenity of Rural and Urban Land

## Zoning map



## Internal Referrals

### Building

Nil.

### Environmental Health

Council's Environmental Health Officer (EHO) has reviewed the DA, including matters such as: noise, lighting, contamination and on-site effluent disposal and has provided assessment comments which have been incorporated under corresponding headings throughout the report.

Council's EHO raised no objections to the proposal subject to conditions of consent.

### Social Planner

Council's Social Planner raised no objection the proposed subdivision.

### Water and Sewer

Council's Water and Sewer Officer has reviewed the DA and comments that:

- Water Supply in Dunoon has sufficient capacity to serve the proposed development; and
- No sewer involved.

Council's Water and Sewer Officer raised no objections to the proposal subject to conditions of consent.

### Engineering/Traffic/Stormwater Drainage

Council's Development Engineer has reviewed the DA, including matters such as: traffic, roads, stormwater and flooding and has provided assessment comments which have been incorporated under corresponding headings throughout the report.

Council's Development Engineer raised no objections to the proposal subject to conditions of consent.

### Ecology

Council's Environmental Strategy Officer reviewed the DA in relation to flora and fauna and has provided assessment comments which have been incorporated under corresponding headings throughout the report.

Council's Environmental Strategy Officer raised no objections to the proposal subject to conditions of consent.

### Infrastructure Services

The DA was referred to Infrastructure Services specifically for comment in relation to proposal to dedicate land to Council for investigation into an extension of the adjacent sports fields.

Infrastructure Services advised that they support the dedication of the nominated land for sports field extension.

### Parks and Reserves

The DA was referred to Parks and Reserves for comment in relation to proposal to dedicate land to Council for investigation into an extension of the adjacent sports fields. In response, Council's Parks and Reserves made the following comments:

1. *Dedicated land for Sporting Fields must be surveyed to show appropriate location of at least one senior football field and that embankments will be maintained by mowing equipment (minimum embankment to be 1:4 preferably 1:6).*

2. *It is recommended that additional car parking be found within the vicinity, preferably within the existing car park precinct being part of the land 131A James Street. The car parking is currently an issue during football competition days with cars parking along Cowley Road which will affect any proposed dwelling on Lot 23. The widening of the road reserve opposite Lot 13 may be a possible parking area.*
3. *Lighting and footbolls will particularly affect Lot 11. Maintenance of some form of buffer should be noted on their sale documents including the ability of persons entering the land to recoup footbolls. It is also recommended that a barrier be installed at the rear of both southern goalposts to minimise balls entering private property.*

## Community Services Officer (Sport and Recreation)

The compilation of the Sport and Recreation Plan for the Lismore LGA 2011 -2021 is currently underway. As part of this Plan the future needs of the Dunoon Community will be assessed. This will include their needs from an open space point of view. It is important that the future needs be properly identified BEFORE any consideration is given to selecting specific sites for identified activities.

A Consultation will also be undertaken with the Clunes Community with regard to their perceived demand for sporting facility space similar to that already in place at Dunoon. If any development is to proceed at Clunes this may impact on the future needs of the Dunoon facility. It would be premature to make any conclusions on future planning requirements in Sport and Recreation for any community or group until all of the demands for the entire LGA are properly prioritised.

## Integrated Referrals

### DECCW (Office of Water)

The Office of Water issued their General Terms of Approval for 'Works' requiring a Controlled Activity Approval under the Water Management Act 2000.

### Rural Fire Service

The NSW Rural Fire Service issued a Bush Fire Safety Authority subject to conditions of consent.

## External Referrals

### Ngulingah Local Aboriginal Land Council

The DA was referred to the Ngulingah Local Aboriginal Land Council and on 12 July 2010. No response has been received.

### NSW Police Crime Prevention Officer

The DA was referred to the NSW Police Crime Prevention Officer on 5 May 2010.

The NSW Police Crime Prevention Officer wrote to Council on 29 June 2010 highlighting some areas of concern. The areas of concern are listed in the below dot points along with an assessment comment in response.

- Formed footpaths/cycle ways are the most suitable means of pedestrian/pushbike access within and out of subdivisions. Serious consideration should be given to such areas.

**Comment:** *Noted and conditions are proposed to enhance the safety of the proposed footpath between May Street and Balzer Park.*

- Street lighting within the sub-division needs to provide well-lit access for pedestrians and vehicles to Australian standards.

**Comment:** *Street lighting is required to be provided for the proposed roads as a condition of consent.*

- Location of suitable Bus Stop and or shelter should be located in an appropriate position to the sub-division.

**Comment:** A bus stop is required within the subdivision as a condition of consent.

- Fencing within the sub-division, backing onto open parkland, needs to be of a suitable material to allow sight vision where the height is above 1.2m.

**Comment:** No fencing is proposed as part of the subdivision other than stock post fencing around the riparian revegetation areas. Fencing can be undertaken under applicable exempt development provisions or alternatively would need to be the subject of further development consent.

- Consideration should be given for roadway usage of the area by emergency vehicles, school buses, garbage trucks and service vehicles.

**Comment:** The design of the proposed roads is assessed as being satisfactory. Conditions will be applied to ensure the roads are constructed to Council's standards.

- Concern is raised for pedestrian safety especially that of school aged children and motorised scooters (wheelchairs) traversing the subdivision.

**Comment:** Noted, however Council's planning controls do not require the construction of a footpath along any of the roads given their classification and traffic volumes. Traffic calming measures are recommended in proposed conditions to ensure this issue is addressed.

- Vegetation plantings as proposed along verges should not provide screened areas or concealment sections.

**Comment:** Noted. A contribution will be taken for street trees and in this regard the trees along the streets will be planted by Council.

- The entrances to the proposed riparian revegetation areas should be open, allowing maximum casual and natural surveillance of the area from residents, pedestrians and occupants of vehicles using the areas.

**Comment:** The fencing around the riparian revegetation will be a stock proof fence that will allow surveillance.

- NSW Police does not support the use of inter connecting pathways / laneways between any cul de sac's and or parkland areas. (noted for future subject site)

**Comment:** Noted.

- All future parkland should be designed so as to provide high visibility and surveillance of all user areas. (noted for future subject site)

**Comment:** Noted.

## Notification/ Submissions

The application was notified to adjoining and surrounding property owners and advertised in the Northern Rivers Echo in accordance with the provisions of Chapter 10 of the Lismore DCP for the Notification and Advertising of Development Applications. As a result of the notification and advertising, six (6) submissions were received which are summarised as follows:

| Name of Submitter                                       | Issues raised   |
|---|---|
| C&V Byrne, 123 Fletcher Rd, Dunoon                      | <ul style="list-style-type: none"> <li>• Impact upon proposed Lot 23 from the increased (from the additional sports field) noise, lighting and lack of parking in the immediate locality.</li> <li>• Need for Council to provide additional parking in the vicinity.</li> </ul>   |
| P Howes & K Kranicz, 6 May St, Dunoon                   | <ul style="list-style-type: none"> <li>• No rationale for the 'road reserve' adjacent to the sports ovals.</li> <li>• The proposed 'road reserve' should become a planted nature reserve.</li> <li>• The proposed 'road reserve' is likely to be used as an unofficial parking lot for sporting events, which would increase the traffic on May Street and therefore noise impacts. The sports fields already have ample parking.</li> <li>• The 'old' May Street should not be joined to the 'new' May Street (instead cul-de-sac's should be constructed) to reduce thru-traffic and reduce noise and increase safety for children.</li> <li>• If cul-de-sacs are not required then traffic dampening should be required for May Street.</li> </ul>   |
| Denis Casey, Email                                      | <ul style="list-style-type: none"> <li>• Does not want the area directly below 6 May Street and adjacent to the sports oval to be parking / turning / drop off space or any other type of vehicular space This area should be planted out with native Koala supporting trees to mitigate noise and lighting from the sports fields and the Dunoon Sports Club.</li> <li>• Buffer planting between Lot 11 and the sports oval should be wider and planted with Native species (including Koala species) to mitigate lighting and noise impacts from the sports fields and the Dunoon Sports Club.</li> <li>• The rear of Lot 6-11 appear to extend over the gully. In this regard, these rear yards will experience flooding.</li> <li>• May Street should be constructed to reduce speed and minimise traffic noise.</li> <li>• All grey water must be thoroughly dispersed over each lot.</li> <li>• Lot 23 or part of would be appropriate for off-street parking to service the sports fields and club.</li> <li>• Council should insist on a suitable parcel of land being available as recreational land for a park or children's playground.</li> </ul> |
| Dunoon Sports and Recreation Club, 15 Cowley Rd, Dunoon | <ul style="list-style-type: none"> <li>• Lot 23 will be impacted by noise and lighting from the park, sport fields and tennis courts.</li> <li>• Lack of parking for the park, sport fields and tennis courts. Lot 23 should be used for parking to overcome this problem.</li> <li>• Lot 11's buffer planting is inadequate and therefore there would still be conflict between users of the sport fields and Lot 11. The area nominated as buffer plantings should be given to Balzer Park so as to eliminate any conflict.</li> <li>• The land proposed for dedication currently has a registered easement over part of it for the Sport Clubs septic trenches. If this area is dedicated then the Sports Club will still require an easement.</li> </ul>  |
| Michael Reynolds, 7 May St, Dunoon                      | <ul style="list-style-type: none"> <li>• The subject lot is in a flood zone, not just the gully floods but the entire valley floor floods as it receives storm water from such a large catchment.</li> <li>• Part of the development is outside the 2(v) Village Zoning, which should not be allowed.</li> <li>• Lots 6-11 (on-site effluent disposal systems) pose a serious pollution risk to the watercourse, even if they have reed bed filtration systems.</li> <li>• DA includes an old noise assessment from previous DA and only addresses Lot 23 and not Lots 1 -22.</li> <li>• Noise levels experienced by Lot 23 exceeded acceptable levels and any residential dwelling would require high fencing and double glazing to mitigate noise impacts.</li> <li>• Numerous noise complaints have been made in the past 2 years about the</li> </ul>   |

|                        |  |
|------------------------|--|
|                        | <p>sports club from residents in May Street. In this regard, the noise emitted from the sports club is a serious disturbance at 7 May Street and would be much higher at proposed new lots 1-23.</p> <ul style="list-style-type: none"> <li>• The respondent has no doubt that the noise impact (including band nights and poets and puckers' afternoons) upon Lots 1-23 would be above the acceptable levels.</li> <li>• Light pollution from sports fields impact upon proposed subdivision.</li> </ul>  |
| Dunoon Community Group | <ul style="list-style-type: none"> <li>• Conflict between sports field / Sports Club and the subdivision.</li> <li>• Lot 23 is not suited for residential. Residential Development on Lot 23 has potential for conflict with the Dunoon Sports Club, tennis courts and Balzer oval (noise, lighting). Lot 23 would be more suited to community land i.e. open space, and car parking, or preschool, small business area.</li> <li>• Acoustic report shows that for Lot 23 to have residential it would have to include a 2.4m fence, double glazing and air conditioning. Council should restrict the lot from being able to be used for residential.</li> <li>• Conflict between Sports field and Lot 11 caused by soccer balls entering that Lot. A fence should be erected behind the soccer goals to prevent the balls from entering the lot. The buffer area should be a separate Lot to ensure that it is well maintained.</li> <li>• Noise report needs to address not just Lot 23 but also the rest of the subdivision.</li> <li>• The impact from light spill on the subdivision needs to be assessed.</li> <li>• The extension of Lots 6-11 into the Zone 1(a) land is not supported as it falls well within the 40m buffer to watercourses as outlined in the DCP and potential impact upon rear fences from storm water run-off.</li> <li>• Buffer between subdivision and adjoining rural land.</li> <li>• Buffer planting around gully is to be fenced off from cattle.</li> <li>• Support the land dedication in making provision for the future expansion of sporting fields. However such dedication may have issues relating to the sports club's wastewater disposal area.</li> </ul> |

### Consideration

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

#### Lismore LEP 2000

The proposed development is permissible 'only with development consent' within the 2(v) Village Zone under the provisions of the Lismore LEP 2000.

- 1. Subdivision of land generally (cl 11)**  
Satisfactory, the DA seeks Development Consent to subdivide the subject land.
- 2. Development affecting places or sites of known or potential Aboriginal heritage significance or potential archaeological sites of relics of non-Aboriginal heritage significance (cl 16 & 17)**  
There are no known sites of Aboriginal or non-Aboriginal heritage significance occurring on the subject land. The DA was referred to the Ngulingah Local Aboriginal Land Council for comment. No response has been received.
- 3. Preservation of trees (cl 18)**  
Satisfactory, the DA seeks Development Consent to remove nominated trees.
- 4. Development of land near adjoining zones (cl 19)**  
As illustrated on "Plan 6 – Zone Alignment", within Attachment 1, the proposal nominates the rear part of Lots 6 to 11 within the 1(b) Agricultural Zone.

Clause 19 states that “*consent must not be granted to the carrying out of development referred to in subclause (2) unless, in the opinion of the consent authority, the carrying out of the development is desirable due to design, ownership, servicing or similar requirements*”.

When considering the provisions of this clause, the proposed extension of Lots 6 – 11 into the 1(b) Zone is considered desirable for the following reasons:

*Design* – The extension of Lots 6 to 11 into the 1(b) zone results in their rear boundaries extending to the edge of the 20m wide riparian revegetation that is proposed on the western side of the gully. Such proposal is considered a superior design outcome when compared to the alternative of limiting Lots 6 to 11 to the 2(v) zoned part of the site and having a resultant small narrow strip of 1(b) zoned land (between the lots and the riparian revegetation) that could be used for grazing. In this regard, the proposed extension of Lots 6 – 11 to be adjacent to the proposed riparian revegetation results in a better buffer separation between the village residential lots and the residual rural land therefore minimising land use conflicts.

The extension of the lots is considered to result in land uses that better reflects the topography and natural features of the land. In this regard, the existing gully is a natural feature at the lowest part of the site that separates the upslope village residential subdivision to the west and the upslope rural land to the east.

The proposed building envelopes and on-site effluent disposal areas of Lots 6 to 11 are located on the 2(v) Village Zone part and not on the 1(b) Agriculture Zone part.

The proposed extension of Lots 6 to 11 into the 1(b) Zone is not considered to unreasonably impact upon the agricultural viability of the residual Lot 24. In this regard the proposed residual Lot 24 exceeds 40ha in area and as such is considered to be a viable agricultural holding.

In addition to the above, the DA in justifying the encroachment of Lots 6 to 11 into the rural zone, asserts that:

- an anomaly exists with the location of the subject zone boundary, in that the zone boundary does not align with the gully which traverses the site.
- historically infrastructure services and topographical features have contributed to the alignment of the zone boundary; and
- the proposed zone extension does not result in an increase in density for the subdivision.

*Ownership* – There are no ownership issues as both the subject 2(v) and 1(b) areas are on the single lot, under the same ownership.

*Servicing* – Lots 6 – 11 are able to be adequately serviced, including on-site effluent disposal areas, within the 2(v) Zone part of the site and in this regard are not proposing the zone extension to be adequately serviced.

## 5. Buffer zones to avoid potential land use conflicts (cl 20)

A Dip Site is located in the north-eastern corner of the proposed residual lot, however it is well away from any of the proposed village residential lots or works associated with the DA.

### Zone objectives and zoning control tables

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

- (a) the development is in accordance with and promotes the specific aims of this plan, the objectives of the zones and the objectives of the controls, and
- (b) the development, in particular, is in accordance with and promotes the character of the neighbourhood within which the development is carried out.

As such, consent to the development may be granted.

### Rural zones

## 6. Zone No 1 (a) (General Rural Zone) (cl 30)

The proposed residual lot (Lot 24), which is 41.06ha is part zoned 1(a) General Rural under the provisions of the LEP.

The proposed subdivision is permissible within the 1(a) zone 'only with development consent'.

The creation of the residual lot, being 41.06ha, is considered to be consistent with the objectives of the 1(a) Zone, as it is considered to maintain and encourage sustainable agricultural activities within the zone and discourage the fragmentation of rural land.

## 7. Zone No 1 (b) (Agricultural Zone) (cl 31)

Part of proposed Lots 6 to 11, the dry sediment basin, the riparian revegetation and part of the proposed residual lot (Lot 24) is zoned 1(b) Agriculture under the provisions of the LEP.

The proposed subdivision is permissible within the 1(b) zone 'only with development consent'.

The creation of the residual lot, being 41.06ha, is considered to be consistent with the objectives of the 1(b) Zone as it is considered to reasonably preserve areas of higher quality agricultural land for agricultural production and discourage the fragmentation of rural land.

## 8. Subdivision and development in rural zones (cl 36)

The proposed residual lot (Lot 24), which is 41.06ha is part zoned 1(a) General Rural and part zoned 1(b) Agriculture under the provisions of the LEP. Pursuant to this clause the minimum allotment size in the 1(a) Zone and 1(b) Zone is 40ha and 20ha respectively.

The proposed residual lot complies with both the minimum allotment size required in the 1(a) and 1(b) Zone.

### Residential Zones

## 9. Zone No 2 (v) (Village Zone) (cl 50)

The proposed subdivision is permissible only with development consent in the 2(v) Zone.

The proposed subdivision is considered to be consistent with the objectives of the 2(v) Village Zone in that:

- the subdivision layout and density is considered to reasonably retain the character of the Dunoon village;
- the proposal provides for village residential lots in a location that is compatible with the character of the Dunoon Village; and
- adequate provision is made for water supply, effluent disposal and refuse collection.

**10. Subdivision of land in Zones Nos 2 (a) and 2 (v) (cl 51)**

This clause requires the consent authority to have regard to the matters relating to environmental impact as specified in Schedule 5 of the LEP. The matters for consideration listed in Schedule 5 are addressed throughout this report.

**11. Excavating and filling of land in urban areas (cl 56)**

The DA seeks consent for the filling of part of the subject land.

The proposed filling will occupy a footprint of 6,600m<sup>2</sup> in the vicinity of proposed lots 3, 4 and 5, ranges in depth from 300mm to 1m and constitutes a total of approximately 2,700m<sup>3</sup>. The proposed fill will be from the excess soil won from the site during road and drainage construction. The filling is proposed to fill an existing depression in the natural topography of this part of the site and will improve the useability of the land by lifting the lot level up to that of the new road level along the lot frontage.

The extent of the proposed filling is relatively minor in the context of the entire subdivision and is not considered to adversely impact upon the natural land form, drainage or the adjoining allotments to the south.

### Draft LEP 2010

Despite the DA being lodged prior to the exhibition of the Draft LEP 2010, the following comments are made in relation to proposal's consistency with the Draft LEP 2010:

- The part of the site currently zoned 2(v) Village is proposed to be zoned part RU5 – Village under the Draft LEP. The proposed subdivision is permitted with consent within the RU5 Zone and is generally considered to be consistent with the objectives of the zone.
- The part of the site currently zoned 1(b) Agriculture and 1(a) General Rural is proposed to be zoned part RU1 – Primary Production under the provisions of the Draft LEP 2010. The proposed subdivision is permitted with consent within the RU1 Zone.
- The proposed village residential lots comply with the minimum allotment size of the RU5 Zone of 1,000m<sup>2</sup>. The proposed residual lot also complies with the minimum allotment size of the RU1 Zone of 40ha.
- As part of proposed Lots 6 to 11 are within the proposed RU1 Zone, clause 5.3 – Development near zone boundaries is applicable. For the reasons outlined above in this report (clause 19 of the LEP), the proposed extension of Lots 6 to 11 into the RU 1 Zone is considered to be consistent with the objectives of this clause.
- This proposed development is considered to be consistent with the objectives and requirements of the following applicable clauses of the Draft LEP: 2.6C - Earthworks and Drainage, 7.6 - Development within urban water supply catchments, 7.7 Essential Services, 7.8 Riparian land and Waterways and 7.9 – Natural resource sensitivity – biodiversity. In addition, other parts of this assessment report and the proposed conditions are considered to have similarly addressed the matters for consideration identified in these clauses.

## SEPP 44 – Koala Habitat Protection

The DA includes a SEPP 44 assessment, which concludes that the land is not classified as “Potential Koala Habitat” as defined under the policy.

The trees proposed to be removed by the proposed expansion are not any of those listed in Schedule 2. In this regard, it is agreed that the land does not constitute “Potential Koala Habitat” as defined by the policy and therefore Council is not prevented, because of this policy, from granting consent to the application.

## SEPP 55 and Contaminated Land Management Issues

Council’s Environmental Health Officer made the following comments with respect to contamination:

*“The Contaminated Land Assessment (CLA) appears to have been carried out in accordance with the NSW Managing Land Contamination Planning Guidelines and has identified the existence of some asbestos waste near the old farmhouse and lead levels on the site above the health based investigation levels for residential land use. It is likely that these contaminants can be properly managed through an appropriate site remedial action plan process (RAP) and this is discussed in the CLA. I am confident that the land can be properly remediated. Appropriate conditions have been nominated”.*

In view of the above, it is concluded that subject to compliance with proposed conditions relating to site remediation, the subject land will be made suitable for the proposed residential use.

## SEPP (Rural Lands) 2008

Satisfactory, the proposed subdivision is considered to be consistent with the provisions of this SEPP.

## North Coast REP 1988 (REP)

Satisfactory, the proposed subdivision is considered to be consistent with the provisions of the REP.

**Clause 12 Impact of development upon agricultural activities** - The proposal will cause a small loss of prime crop or pasture land in the part of the site where proposed Lots 6 to 11 extend into the 1(b) Zone. Such a small loss of prime crop or pasture land is in the circumstances considered satisfactory as the residual lot still exceeds 40ha in area and the proposed 40m of proposed riparian revegetation provides a good natural buffer between the village subdivision and the prime crop or pasture land.

**Clause 43 Residential development** – the proposed subdivision nominates a density of lots that when developed is not considered to adversely affect the environmental features of the land.

As outlined above in this report, the proposed road widths are assessed as being satisfactory for the proposed subdivision and in particular have been designed to accommodate public transport (bus service and bus stop).

**Clause 66 Adequacy of community and welfare services** – the proposed subdivision adjoins the Balzer Park sports fields and is considered to be well sited to the other village services and facilities, including: shops, school, church and other commercial services of the village.

## Lismore Development Control Plan

The application has been assessed against the relevant controls in the Lismore DCP as indicated in the following compliance table. Additional more detailed comments with regard to the major issues are provided after the table.

## 1. DCP 2002 Compliance Table

| <b>LISMORE DEVELOPMENT CONTROL PLAN</b>  |                 |   |
|--|-----------------|---|
| <b>Requirement</b>   | <b>Complies</b> | <b>Comments</b>   |
| <b>Chapter 6 - Subdivision and infrastructure (Village Subdivision)</b>                      |                 |   |
| <b>Preferred minimum allotment size – 2000m2 where no reticulated sewerage is available.</b> | Yes             | Only 1 lot (proposed Lot 6) does not comply with the preferred minimum allotment size of 2000m2 as it has a proposed area of 1,879m2. A condition however is proposed to increase the size of proposed Lot 6 to comply with the preferred lot size of 2,000m <sup>2</sup> .   |
| <b>Neighbourhood Planning</b>  | Yes             | The proposed subdivision design is considered to satisfactorily retain the character of the Dunoon village and be consistent with the specified design principles.  |
| <b>Village Design</b>  | Yes             | <p>The proposed subdivision reflects existing site characteristics. The street network provides good connections to the existing network, the width of the streets match the existing and cater for public transport. The subdivision layout and density enables the efficient provisions of physical services and the future siting of energy efficient dwellings. The proposal includes lots sizes that are appropriate given no reticulated sewer is available and adds to the stock of larger residential lots available in Dunoon.</p> <p>The subdivision retains significant vegetation. The subdivision layout is appropriately integrated with the village, particularly the adjoining Avondale Estate. The subdivision design and road network facilitates an acceptable level of surveillance of the site.</p> <p>The proposed subdivision, subject to conditions, provides adequate protection from bushfire, incorporates natural features (gully and fig tree), minimises soil erosion, provides sufficient buffers to rural land, avoids flood prone land and will be suitably remediated from contamination.</p> |
| <b>Major Movement Networks</b>   | Yes             | <p>The existing road network can accommodate the traffic generated by the subdivision.</p> <p>The subdivision will not affect major movement networks. In this regard, the existing ends of May Street are connected and Donaghue Street is connected to May Street and both are proposed to be of a 9m width pavement within a 20m wide road reserve. This design ensures compliance with bus serviceability road widths and meets the Northern Rivers Local Government Development and Design Manual.</p> <p>Cowley Road is assessed as being an 'access place' and is required to have a width of 5m. Part of the road experiences localised narrowing, down to 4.5m, due to the presence of a group of trees. One of the trees is badly rotted out at the base and in this regard, Council's Development Engineer proposes a condition that an Arborist review the health of the trees and an Engineer assess</p>   |

|   |     |   |
|---|-----|---|
|   |     | <p>the trees impact upon the safety of vehicles using Cowley Road.</p> <p>In the event that the Arborist Report advises the trees remain, the Engineers report, including plans, will detail the additional line marking and traffic control that will be required to ensure the safety of the road users. This requirement is proposed as a condition of consent.</p>  |
| <b>Local road networks</b>                              | Yes | The Local road network is augmented by linking the two sections of May Street and providing the connection to Donaghue Street.  |
| <b>Pedestrian, Cyclist and Non-vehicular facilities</b> | Yes | As shown on the subdivision plans, it is proposed that a 1.2 metre footpath/bikeway be constructed to provide a direct connection from May Street to Balzer Park for pedestrians and bicycles. This chapter does not require a footpath along May Street given its classification as a 'local road'. In this regard, it is considered acceptable that pedestrians and cyclists share the proposed roads with vehicles.  |
| <b>Public Transport</b>                                 | Yes | The 9m wide roads proposed provide compliance with bus serviceability and the provision of a bus shelter has been conditioned.  |
| <b>Public Open Space</b>                                | Yes | The subdivision design does not make any provision for open space within the subdivision, which is considered appropriate given the site directly adjoins Balzer Park, which has sporting fields and a playground area, and to a lesser degree the large size of the lots (>2,000 <sup>m</sup> <sup>2</sup> ) provides opportunity within the lots for an abundance of private open space. The proposal provides a pedestrian path from the subdivision to Balzer Park.                                 |
| <b>Street Design and On Street Parking</b>              | Yes | <p>The road design is in accordance with the Northern Rivers Local Government Development and Design Manual. Conditions will be applied in this regard. Final details will be addressed during the issue of a Construction Certificate.</p> <p>Given the width of May Street (relative to its classification), Council's Development Engineer recommends incorporating treatments into the design of the street to create a safe and low speed environment. A condition is proposed in this regard.</p> |
| <b>Street Construction</b>                              | Yes | Satisfactory, subject to appropriate conditions of consent. Street construction will be in accordance with the Northern Rivers Local Government Development and Design Manual.  |
| <b>Utility Services</b>                                 | Yes | Satisfactory, subject to appropriate conditions of consent.   |
| <b>Effluent Disposal</b>                                | Yes | Council's Environmental Health Officer advises that most of the proposed lots low tech systems can be provided and the objectives of Councils strategy can be met. This issue is discussed in detail below in this report.  |
| <b>Stormwater Drainage</b>                              | Yes | Satisfactory, subject to appropriate conditions of consent. In particular, the development is able to meet the LCC Stormwater Quality and Quantity Management objectives by (a) minimum 5,000L BASIX rainwater tank which is dual plumbed to toilets/garden and (b) attenuation of flows and final water polishing via 530,000L (with a 20% surplus capacity) sediment basin.   |
| <b>Water Quality Management</b>                         | Yes | Satisfactory, subject to appropriate conditions of consent. In particular, the development is able to meet the LCC Stormwater Quality and Quantity Management objectives by (a) minimum 5,000L BASIX rainwater tank which is dual plumbed to toilets/garden and (b) attenuation of flows and final water polishing via 530,000L (with a 20% surplus capacity) sediment basin.   |

|                                    |     |   |
|------------------------------------|-----|---|
| <b>Streetscape and Landscaping</b> | Yes | Consistent with Council's assessment of other subdivision applications, s94 contributions will be applied to any consent in relation to the provision of "street trees", which will ensure a satisfactory streetscape for the subdivision.  |
| <b>Lot Layout</b>                  | Yes | The proposed lots sizes exceed the suggested solution. The lots are capable of achieving the specified building envelopes. Each of the building envelopes are on parts of the lots that are less than 20% slope. The generous size and orientation of the lots is considered to allow opportunity for future houses to be built so as to have north facing living area windows and also ensure that future dwellings will not be overshadowed by dwellings on other lots. |
| <b>Environmental Protection</b>    | Yes | Satisfactory. The proposal retains existing native vegetation and proposes 40m of riparian revegetation adjacent to the existing gully.   |

| <b>Buffers</b>                                       |       |   |
|--|-------|---|
| Grazing land (30m buffer to dwellings)               | Yes   | The proposed residual rural land is currently being used for grazing. The proposed subdivision incorporates a 40m wide riparian revegetation buffer around the existing gully, which will operate as a buffer between the proposed village lots and the part of the residual land which is able to be used for grazing. A condition will be applied to fence the riparian revegetation to restrict cattle from grazing within this buffer.  |
| Water course (50m to dwellings)                      | No*** | <p>*** The on-site effluent disposal areas of Lots 6 to 11 are setback at least 40m from the existing gully, however parts are within 50m of the gully therefore not strictly complying with the requirement of this chapter.</p> <p>The non-compliance with the 50m setback requirement is considered acceptable in the circumstances, given:</p> <ul style="list-style-type: none"> <li>• The minor nature of the non-compliance – being less than 10m;</li> <li>• The setback of the proposed on-site effluent disposal areas to the gully comply with the 40m setback requirements of Council's On-Site Sewage and Wastewater Management Strategy for on-site effluent disposal systems to ephemeral streams;</li> <li>• The existing gully is not a typical water course as it is a dry drainage gully that only flows in rain events; and</li> <li>• The proposal nominates 20m of riparian revegetation between the gully and the proposed on-site effluent disposal systems of Lots 6 to 11, which will assist in the: management of any effluent that moves from the disposal fields towards the gully, the habitat value of the gully and the visual screening of the subdivision.</li> </ul> |
| <b>Crime prevention through environmental design</b> |       |   |
| Surveillance   | Yes   | The proposed subdivision layout is considered to result in acceptable surveillance. The proposed footpath connecting May Street to Balzer Park will be visible from May St and adjacent Lot 13, which is considered satisfactory. To facilitate the increased surveillance and safety of the users of the footpath, conditions will be applied in relation to: the width of the footpath, the height of adjacent landscaping and the provision of lighting.   |
| Access Control and Target Hardening                  | Yes   | Satisfactory to the degree relevant to the DA.  |
| Territorial Reinforcement                            | Yes   | Satisfactory to the degree relevant to the DA.  |
| Defensive Space                                      | Yes   | Satisfactory to the degree relevant to the DA.  |
| <b>Waste Minimisation</b>                            |       |   |
| Development and Construction Certificate Application | Yes   | The development will require the demolition of rural outbuildings as well as the removal of building waste and rubble. The requirements of Lismore DCP Chapter 15 - Waste Minimisation apply and a waste management plan will be required. An appropriate condition is proposed.  |
| <b>Part B Chapter 1 – Dunoon Village</b>             |       |   |
| Effluent Disposal                                    | Yes   | The average lots size for the Lots 1 to 22 is approximately 2,700m <sup>2</sup> . Council's Environmental Health Officer has reviewed the DA and assesses that the lot sizes are adequate to accommodate the proposed on-site effluent disposal systems which satisfy the objectives Councils On-Site Sewage and Wastewater Management Strategy.  |

|                            |     |   |
|----------------------------|-----|---|
| Future Zoning Requirements | Yes | The existing gully is the focus for a buffer between the village subdivision and the agricultural land to the east. The nominated building envelopes and proposed on-site effluent disposal areas are all setback a minimum of 40m from the existing gully. The preferred land use of the site is residential.  |
| Servicing of the Village   | Yes | Subject to the increase in the size of Lot 6, the lots are assessed as being appropriately sized to accommodate the proposed on-site effluent disposal systems. No objection is raised in relation to water supply.   |
| Current Facilities         | Yes | <p>This section states that <i>“if the village expands to the east over the next 10 years at the current rate, there would be a need for the provision of a park/playground area within this area to reduce the walking distances to Balzer Park and provide a link from the east to the school. This area should be a suitable area and quality (about 5000m<sup>2</sup>) located centrally to future eastern residential areas”</i>.</p> <p>Given the proximity of the subject site to Balzer Park and its existing park and playground facilities, it is not considered appropriate that the abovementioned park/playground area should be provided within the subject DA. This conclusion is reflected by the fact that Map 3 within this Chapter identifies an area to be dedicated as open space, which also links to the school, within the adjoining residential area to the south (Avondale Estate). Such area of open space as identified on Map 3 was not provided within the Avondale Estate.</p> <p>The lack of open space within the adjoining Avondale Estate is not considered sufficient reason to require the proposed subdivision to provide a park and playground facilities.</p> |
| Indicative Road Patterns   | Yes | <p>The proposed road network of the subdivision (May Street link) is considered to satisfactorily reflective of the road layout illustrated on Maps 3 and 4 of this chapter.</p> <p>The fact that the proposed subdivision makes the additional link (not shown on Maps 3 and 4) between May Street and Donaghue Street is not considered to be unreasonable in the circumstances and will provide for a more dispersed traffic network with more options.</p>  |

## Section 94 Contributions Plan

Section 94 contributions will be charged to the development in accordance with the Lismore Contributions Plan.

The DA offers to dedicate approximately 1ha of land to Council for investigation into the extension of the adjoining sports fields in lieu of appropriate s94 Development Contribution off-sets. As detailed below in this report, the Lismore Contributions Plan makes provision that the dedication of land may be offered as a settlement of a contribution even though it does not relate to an item included on an adopted works schedule in the contributions plan.

See below in this report for more detail in relation to the proposed land dedication and its implications of the s94 contributions charged to the development.

## Applicable Regulations

There are no additional regulations applicable to the determination of this DA.

## Council Policies

**Access to Battleaxe type Subdivisions** – The proposal nominates 3 battleaxe lots (Lots 12, 16 and 17), with each assessed as having a width of access shaft complying with the minimum requirement for urban lots being 5m. A condition will be applied in relation to the construction of a driveway within the access shafts to Council's standards.

Each of the proposed lots have frontage to the proposed road network.

### **Undergrounding of Electricity Mains and the provision of Street Lighting**

The proposed subdivision is considered to be consistent with the provisions of this policy.

### **Undergrounding of Telephone Plant in Subdivisions**

The proposed subdivision is considered to be consistent with the provisions of this policy.

### **Equity in Access and Provision of Facilities to Public Spaces**

The proposed subdivision is considered to be consistent with the provisions of this policy. In particular, a condition has been proposed to ensure that the proposed footpath is constructed in accordance with Council's standards and AS 1428.

### **Social Impact Assessment**

This Social Impact Assessment policy has been superseded by Council's Social Impact Assessment Guidelines. The Social Impact Assessment Guidelines state that a DA for the residential development of 20 or more lots in an urban area triggers the requirement for a Social Impact Assessment (SIA). Notwithstanding this the Social Impact Assessment Guidelines further states that meeting one of the trigger criteria does not automatically mean that a development proposal will require a full SIA.

In relation to the subject DA, it is considered that a full SIA is not required given:

- Council's Social Planner did not advise the Applicant that an SIA was required during the pre-lodgement meeting held for the subject DA;
- The Applicant has provided written consideration of the social impacts of the proposal as an addendum to the statement of environmental effects; and
- Council's Social Planner raises no objection to the proposed subdivision.

### **Sustainability, Viability and Amenity of Rural and Urban Land**

The proposed subdivision is considered to be consistent with the provisions of this policy.

## Roads Act Approvals

Relevant approvals are required as part of the proposed conditions of consent.

## Local Government Act Approvals

Relevant approvals in relation to stormwater management and water management works are required as part of the proposed conditions of consent.

## Noise and Lighting Impacts

The proposed subdivision adjoins village residential allotments to the west and south and agricultural uses to the east. To the north is the 'Balzer Park' sports grounds and to the north east is the Dunoon Sports Club.

Given the nature of the 'sports ground' and 'sports club' uses, there are potential noise and lighting impacts upon the residential amenity of the proposed subdivision. In this regard, it is noted that Council recently approved DA5.2009.545 for "earthworks to expand existing Sporting Field and the installation of Sports Ground / Flood lighting" at Balzer Park. The noise and lighting impacts from the sports ground onto the land subject of the proposed subdivision were considered as part of development consent 5.2009.545 and appropriate conditions were imposed.

### Proposed Lots 1 - 22

The subject DA included the noise assessment report prepared in March 2008 for the previous subdivision DA5.2006.647 as the findings of this report were deemed to still apply to the proposal. This noise assessment report focused on noise impacts on proposed lot 23 with no comment on potential noise impacts on other lots. Further information provided by the Applicant contained a noise assessment report addressing noise impacts on proposed lots 1 to 22. This noise assessment report provides a realistic background noise level (RBL) of 32dB(A) for the evening and night time periods and researched existing Council approvals for the adjoining Dunoon Sports Club and the Sports Grounds. The noise assessment report demonstrates that there should be minimal impact on proposed lots 1 to 22 of the development provided that the Dunoon Sports Club and the Sports Ground are operated in accordance with their respective consents and the new dwellings are built of conventional construction.

### Proposed Lot 23

Proposed Lot 23 has the potential to be significantly impacted by noise and lighting from the Dunoon Sports Club and adjacent sports ground uses. In relation to the land subject of proposed Lot 23, the DA includes a summary of the noise assessment report undertaken as part of the previous DA5.2006.647. In relation to the noise impacts upon Lot 23 the DA notes:

- The existing noise environment at Lot 23 is currently above the amenity and intrusiveness criteria as specified in the Industrial Noise Policy;
- Based on the available data, noise mitigation measures are required to reduce the evening peak noise environment by 14dBA at the monitoring site to conform with the Project Specific Noise Level (PSNL). Such noise measures include:
  1. restricting the building envelope to a minimum of 50m from the southern most boundary of the lot;
  2. constructing a 2.4m high fence along the southern boundaries and part of the western boundary; and
  3. requiring habitable rooms of proposed dwellings fronting Cowley Road to be fitted with 6mm or double glazed windows and air-conditioning which will permit windows/doors to be closed and internal amenity to be maintained.

In addition to the above, the subject DA outlines that the ultimate land use for Lot 23 may not be for the purpose of a dwelling given alternative land uses are permissible in the 2(v) Zone. The DA further outlines that notwithstanding the possible alternative land uses within the 2(v) Zone, that if a dwelling house was to be the use of Lot 23 that it would be capable of complying with the PSNL with the abovementioned recommended noise measures.

In view of the above the Applicant has requested that Council defer the requirement for any noise management works until such a time as the ultimate land use of Lot 23 is known. In this regard the Applicant requests that the following condition be applied to any consent:

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

- *An application for a dwelling house or structure proposed for residential habitation on Lot 23 shall be accompanied by a detailed noise impact assessment which addresses the operational activities of the adjoining sports Club and sports ground facilities.*

- *An application for a dwelling house or structure proposed for residential habitation on Lot 23 shall be accompanied by a detailed light spill assessment which addresses the operational activities of the adjoining tennis courts pursuant to Australian Standard 4282.*

Given the 2(v) zoning of the site and the potential noise and lighting impacts from the sports club and sporting grounds on Lot 23, it is considered appropriate that, subject to some modifications, a condition of this nature be applied to any consent.

It is generally not acceptable to rely upon double glazed windows and air-conditioning to achieve a compliant internal residential amenity, especially in the local climate. However, given the 2(v) zoning of the site, its location and isolation from the other 2(v) zoned part of the subject land, it is considered reasonable that such building and mechanical measures be relied upon to achieve a compliant internal amenity if a residential use of the lot was sought in the future. The range of permissible uses and future development of Lot 23 is not considered to warrant refusal of the application.

On balance, it is considered that noise and lighting issues can be reasonably managed for this development, subject to conditions of consent.

### On-Site Effluent Disposal

The DA demonstrates that each of the proposed lots have the potential to site a dwelling that is serviced by a low technology gravity fed on-site effluent disposal system. However, for some of the lots to achieve a gravity fed system the area of the lot available to site a dwelling is restricted, which limits the opportunity for future owner's to site their dwellings where they desire.

The DA seeks to provide the proposed lots greater flexibility in the siting of future dwellings and in this regard seeks in-principle approval for on-site effluent disposal systems that involve pumping to effluent disposal fields instead of gravity feed. It is considered appropriate, that such system is supported to enable future lot owner's greater flexibility in the siting of their dwellings and associated structures, particularly when it enables the dwelling to take advantage of the optimal northerly aspect or to achieve greater levels of privacy to the dwelling and associated structures. These systems will be the subject of a specific on site approval to be considered and assessed as each lot is developed individually, and each system will subsequently become the responsibility of each individual property owner to maintain and manage in accordance with accepted standards. Council can be satisfied from the information provided with the application that all proposed lots can effectively and safely manage effluent on site.

Given the existing dry gully on the site only flows intermittently, in accordance with Council's strategy, it was assessed that a 40m buffer between the on-site effluent disposal systems and the existing dry gully on the site was appropriate.

When applying the 40m buffer from the gully, it is assessed that the potential for the siting of a building envelope with associated effluent disposal fields on proposed Lot 6 is limited. In this regard, it is recommended that this lot be increased in width to improve its utility for development purposes. A condition will be applied requiring an adjustment of the boundaries between proposed Lots 6 to 11 to achieve an increase in the width of Lot 6 by a minimum of 5m.

Proposed Lots 6 to 11 are impacted upon by the required 40m buffer to the existing gully. Whilst the consultant has demonstrated that effluent disposal is possible much will depend on the siting and scale of any future development on individual lots. Council may be required to consider on merit some variation to the buffer setbacks to the boundaries and to the gully, which is permitted in Council's strategy. It is proposed that 20m of riparian revegetation will be established on both sides of the gully, which will assist in the management of any effluent that moves from the disposal fields towards the gully. It should be noted that a properly designed and managed effluent disposal field can effectively manage all effluent within close proximity to the field and any discharge from the disposal areas should be minimal. Accordingly it may be possible to permit an encroachment of effluent disposal areas into buffers (say to 35m from the gully) and particularly if effluent is treated to BOD 20mg/litre secondary standard.

Also proprietary on-site sewage management systems may need to be considered on some of these lots as it may be difficult to site ETA trenches in some instances.

In summary, it appears that for most of the proposed lots low tech systems can be provided and the objectives of Council's strategy can be reasonably met. This is likely to require secondary treatment of effluent. Appropriate conditioning is nominated.

## Flooding

In response to public submissions raising concern that the existing gully and surrounding low lying area is subject to inundation during periods of heavy rainfall, Council wrote to the Applicant requesting them to demonstrate that proposed Lots 6 to 11 will not be adversely impacted by localised inundation of the adjacent gully.

In response, the Applicant prepared an Engineering Flood Level Assessment report for the site, which included flood modelling for the Q100 storm event. This modelling determined that in the Q100 storm event the volume of water is 6.3m<sup>3</sup>/s and the average depth of flow is 0.5m. The Applicant advised that this result was confirmed by liaison with the landowner who advised that over the last 25 year period, stormwater has never entered the farm pumping shed, which is only 1m above the gully invert level.

In addition, the Applicant pegged the Q100 storm event on site, establishing that the building envelopes and on-site effluent disposal areas of proposed Lots 6 to 11 are above flood level associated with the Q100. In this regard, the floor level of any future residences will be able to comply with the Council's requirement to be 300mm above the modelled Q100 level.

Council's Development Engineer assesses that the modelling carried out is indicative of the depth of flow for the Q100 storm (as modelled by two recognised engineering calculations).

The Applicant's Engineer and Council's Development Engineer agree that the planting of the proposed riparian revegetation to the gully will not result in inundation of Lots 6 to 11.

## Flora and Fauna

A Flora and Fauna Report was included as part of the DA. In relation to the site's flora, the report commented that native vegetation on the site is either retained outside of the development area or adequately accommodated on the proposed lots and that the trees to be removed are largely Bamboo and Camphor Laurel.

The report concluded that with reference to the EPBC Act and the TSC Act, that no Endangered or Vulnerable plants or Endangered / Threatened Ecological Communities occur at the site and that the site does not provide significant habitat for Endangered or Vulnerable fauna.

Council's Environmental Strategy Officer inspected the subject site and concluded "*that threatened species known to occur in the general locality would be unlikely to occur on the subject site. Consequently, an Assessment of Significance (Section 5A, EP&A Act) for the threatened flora and fauna species known or likely to occur within the subject site is not required*".

## Stormwater

Council's Development Engineer has reviewed the DA and assessed that the proposed subdivision is able to meet Council's Stormwater Quality and Quantity Management objectives by:

1. requiring future dwellings have a minimum 5,000L BASIX rainwater tank which is dual plumbed to toilets/garden; and
2. attenuation of flows and final water polishing via 530,000L (with a 20% surplus capacity) sediment basin.

The proposal nominates the proposed dry sediment basin and associated infrastructure on the proposed residual Lot 24. In this regard, the DA makes the following statement:

*"The dry sedimentation/attenuation basin will be constructed upon private lands to which general vegetation maintenance will be under the control of the property owner. An easement will be created over the sedimentation/attenuation basin to the benefit of Council, however is expected that cattle or other grazing animals would have access to the area and that the basin would be fenced along its frontage. Consistent with handover provisions required by the Council on other subdivisions the development shall be responsible for ongoing maintenance during the course of the subdivision house construction, being until two years from the release of the subdivision certificate. Maintenance inspection requirements are listed within the Stormwater Report details in Appendix 1."*

The above proposal, is considered acceptable provided the maintenance period is required to be two (2) years from the release of the final Subdivision Certificate.

In addition, the developer is to enter into a registered legal agreement, with any subsequent purchaser of the residue Lot 24, that they be obliged to undertake the maintenance of the dry sediment basin and associated infrastructure on the same terms and conditions as the original developer.

Conditions of consent are applied in relation to the management of stormwater quality and quantity from the site.

## Dedication of Land

The DA includes a proposal to dedicate approximately 1ha of land to Council for investigation into the expansion of the 'Balzer Park' sports fields. The DA outlines that appropriate s94 Development Contribution off-sets would be required in lieu of the land dedication.

The Lismore Contributions Plan makes provision that the dedication of land may be offered as a settlement of a contribution although it does not relate to an item included on an adopted works schedule in the contributions plan.

The Lismore Contributions Plan states that *"acceptance of a material public benefit or the dedication of land not included within a works schedule will be at the discretion of Council. Any offer of a material public benefit or land not in an adopted works schedule should be made in writing and should accompany the development application. Sufficient information should be supplied to enable Council to:*

- *Assess the offer in the context of the development.*
- *Determine whether the needs of the residents would be satisfied.*
- *Assess whether the offer is acceptable in the circumstances.*
- *Review the implications for the adopted works schedule and cash flow".*

The Lismore Contributions Plan further states that *"credit for a material public benefit, or dedication of land not identified within and adopted works schedule will not be given over and above the relevant section 94 liability for that particular development".*

The subject land is located in the 'North East' catchment of the Lismore Contributions Plan and in relation to 'Recreation and Community Facilities' the Local Works Program for this catchment includes:

1. High screen fencing for Balzer Park; and
2. Cover rear deck and fencing at the Dunoon Community Hall.

The effluent land application area for the Dunoon Sports Club and the Amenities block on Balzer Park are currently located on part of the land subject of the proposed dedication. An easement to drain sewerage reflecting this situation burdens part of the land proposed to be dedicated.

The Dunoon Community Group commented in their submission that the proposed land dedication for the future expansion of sporting fields should be supported, however that such dedication may have issues relating to the sports clubs effluent disposal area.

The DA was referred to Council's Infrastructure Services and Council's Parks and Reserves for their consideration as to whether or not Council should accept the proposed land dedication in return for appropriate s94 Development Contribution off-sets.

Council's Infrastructure Services advised that they supported the dedication of the nominated land for sports field extension.

Council's Parks and Reserves section commented: "*Dedicated land for Sporting Fields must be surveyed to show appropriate location of at least one senior football field and that embankments will be maintained by mowing equipment (minimum embankment to be 1:4 preferably 1:6)*".

It is considered that further information and further assessment is required before Council make a decision in relation to the proposed land dedication. In particular:

- the determination of an agreed valuation of the land would enable Council to undertake a proper review of the implications for the adopted works schedule and cash flow.
- consideration needs to be given to the extent and cost of works required to construct an additional sporting field on the proposed land to be dedicated.
- consideration needs to be given to where additional car parking could be provided to service the additional sporting field. In this regard Council's DCP requires the provision of 30 car spaces per sports field.
- consideration needs to be given by Council's Community Services Officer – Sports and Recreation (who is currently preparing the Lismore Sport and Recreation Plan 2011 to 2021) and Council's Integrated Planning section.

In view of the above, it is recommended that Council not accept the proposed land dedication for sports field extension until it undertakes a more detailed assessment of the merits of the proposed land dedication. Particular further consideration needs to be given to: the need for another sport field in Dunoon, particularly in the context of Council's preparation of the Lismore Sport and Recreation Plan 2011 – 2021, and the cost of developing and maintaining the land as a sports field. Proceeding with pursuing the information required to enable Council to undertake a more detailed assessment of the proposed land dedication would have been a substantial amount of work at the Applicants expense and was not requested as there was not guarantee of a favourable outcome for this DA.

Notwithstanding the above, it is recommended that Council staff leave open the option of consultation with the landowner in regard to the merits of the proposed land dedication at a future time. Procedurally, a s82A Review of Determination application or a s96 Application to Modify Consent could be made in the future to enable Council to formally consider the proposed dedication and its implications for Council.

It is worth noting that the dedication of lands and any necessary improvements to extend the sports field may have implications for Council's adopted Delivery Plan, and would need to be considered in that context in order to respond to community expectations.

## 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 of the subdivision in relation to the natural environment                             | YES        |
| 4. Open Space Provision   | YES        |
| 5. Traffic generation and Car parking provision   | YES        |
| 6. Physical relationship to and impact upon adjoining development                               | YES        |
| 7. Site Management Issues   | YES        |
| 8. ESD Principles   | YES        |
| 9. All relevant S79C considerations of Environmental Planning & Assessment (Amendment) Act 1979 | YES        |

## Submittor's Concerns

A number of the matters raised in submissions have been addressed in the body of this report. Matters that have not been addressed are addressed as follows:

*Conflict with Sporting Field* – The objections raise concern in relation to the potential conflict between the existing soccer fields and proposed Lot 11. Concern is particularly raised in relation to soccer balls being kicked from the soccer fields onto proposed Lot 11. The objections request that a fence be erected behind the goal posts of the soccer field and that the proposed buffer area on Lot 11 become part of the sports fields to ensure that it is well maintained.

**Comment:** The proposal nominates the subdivision of land that is zoned 2(v) Village under the provisions of the LEP. The design of the subdivision has recognised the potential conflict between soccer balls from the adjacent soccer field and the proposed residential lots and in this regard has incorporated into the design a 20m planted buffer between the sporting fields and the nearest future dwelling site within the proposed subdivision.

In the circumstances, the proposed 20m planted buffer zone nominated as part of proposed Lot 11 is considered to provide a satisfactory buffer to the adjacent sports fields and is considered to adequately protect the amenity of any future dwelling on proposed Lot 11 from soccer balls. Incorporated into a proposed condition is the requirement that unrestricted access to the buffer planting area is to be made available to the users of the adjoining public reserve for the purpose of retrieving balls and equipment.

It is considered that the owners/operators of the soccer field have a responsibility to manage the use of the field so as to try and prevent soccer balls leaving the public reserve. In this regard, it may be in their best interests to construct a fence behind the goal posts on the soccer field, however it is not considered reasonable that the developer be required to construct such a fence.

*Lack of Parking for the Sports Fields – Lot 23 would be appropriate to provided parking for the sports fields and sports club.*

**Comment:** The lack of parking associated with the sports fields is not considered to be a relevant matter in the assessment of the subject DA.

*No need for the wide Road Reserve adjacent to the western boundary of Balzer Park - it should become a planted nature reserve.*

**Comment:** Council's Development Engineer has proposed a condition that the proposed road reserve at the northern end of May Street shall be a maximum width of 20m and that the additional land shown as road reserve within the approved plan shall be dedicated as public reserve.

*The wide road reserve adjacent to the western boundary of Balzer Park is likely to be used as an unauthorised parking / drop-off area for the adjacent sports grounds, which would increase traffic and noise. This area should be planted out.*

**Comment:** As abovementioned, the extra width of the road reserve will become dedicated as public reserve. In addition, a condition is proposed to require the erection of bollards, or similar, to restrict vehicles parking in this area.

*May Street should not be connected through to reduce through traffic and increase safety for children or alternatively traffic dampening should be required.*

**Comment:** The chapter of the Lismore DCP that relates to the Dunoon Village recommends the connection of May Street. Furthermore, Council's Development Engineer raises no objection to the connection of May Street subject to the provision of some traffic calming to help create a low speed environment, which will be conditioned as part of any consent.

*The land proposed for dedication currently has a registered easement over part of it for the Sports Club septic trenches. If this area is dedicated then the Sports Club will still require an easement.*

**Comment:** Noted, however at this stage it is recommended that Council and the landowner undertake further assessment of the merits of the proposed land dedication prior to making a decision on whether or not to accept the land.

## Sustainability Assessment

### Sustainable Economic Growth and Development

The land subject of the proposal is zoned under the provisions of the Lismore LEP to be subdivided for village residential purposes. The proposed lot sizes and density of the subdivision is compatible with the character of the Dunoon Village and are generally consistent with the desires of the community. The proposed subdivision will increase the residential land available and within a close proximity to the centre of the Dunoon Village which has positive social impacts.

The construction of the subdivision and then future dwellings will result in positive economic impacts.

In addition to the positive economic and social benefits of the DA, subject to the imposition of and compliance with the proposed conditions of consent, the proposal is considered to result in acceptable environmental impacts. In this regard the proposal is considered to constitute sustainable development.

## Social Inclusion and Participation

Given the DA history of the site (particularly in relation to the previous DA5.2006.647 which was withdrawn), prior to the lodgement of the subject DA the Applicant undertook their own community consultation to seek the views of the local community on the proposed subdivision. In addition, the DA was publicly exhibited in accordance with Council policy.

## Protect, Conserve and Enhance the Environment and Biodiversity

The DA proposes a 40m wide riparian revegetation along the existing gully on the site (20m each side), the retention of existing native vegetation, the removal of weed species and appropriately sized lots to accommodate acceptable on-site effluent disposal systems. These aspects of the proposal combined with the imposition of proposed conditions of consent, particularly in relation to revegetation, erosion and sediment control and stormwater quality management, and the proposed subdivision is considered to protect, conserve and enhance the environment and biodiversity.

## Best-Practice Corporate Governance

The community is considered to have been appropriately informed of the proposal in that the DA has been publicly exhibited in accordance with Council policy. In addition, the purpose of this report is to provide an appropriately detailed and thorough assessment of the proposal to best assist the Council in its determination of the DA, which is considered best practice.

## Comments

### Finance

Not required.

## Public consultation

The details of the public exhibition, submissions received and their consideration have been addressed within the body of this report.

## Conclusion

The key issues associated with the subject DA include: land use conflict with the adjacent sports ground and sports club (noise, lighting, and soccer balls), on-site effluent disposal, the extension of the subdivision into the 1(b) Agricultural Zone and the proposed land dedication.

A detailed assessment of the proposed development indicates that the potential adverse impacts of the proposed development are able to be adequately addressed by the proposed conditions of development consent.

It is considered that Council, on behalf of the community, need to undertake further consideration of the merits of the proposed land dedication. Particular further consideration needs to be given to: the need for another sport field in Dunoon, particularly in the context of Council's preparation of the Lismore Sport and Recreation Plan 2011 – 2021, and the cost of developing and maintaining the land as a sports field.

Council staff can undertake consultation with the landowner and further consideration of the merits of the proposed land dedication after the determination of this DA and a s96 Application to Modify Consent could be made by the landowner to enable Council to formally consider the proposed dedication and its implications for Council.

## Attachment/s

1. Proposed Subdivision plan with arial underlay
2. Site Analysis plan
3. Proposed Subdivision (Plan 3)
4. Subdivision layout with site services (Plan 4)
5. Road Hierarchy and Road Width (Plan 5)
6. Zone Alignment (Plan 6)
7. Draft Notice of Requirement

## Recommendation

That:

1. Council as the consent authority, grant consent to Development Application No. 2010/123 subject to the following conditions.

### STANDARD

1 In granting this development consent, Council requires:

- All proposed buildings be constructed in accordance with any amendment or modification outlined in these conditions
- All proposed works be carried out in accordance with any amendment or modification outlined in these conditions
- Any proposed use of buildings or land be in accordance with any amendment or modification outlined in these conditions

and be substantially in accordance with the stamped approved plan(s) No:

- Plan 2 SITE ANALYSIS (Ref 09106-DA1) dated 22/03/2010
- PROPOSED SUBDIVISION LAYOUT WITH AERIAL UNDERLAY (Ref 09/106B) – dated 19.01.11
- Plan 3 PROPOSED SUBDIVISION LAYOUT (Ref 09/106B) dated 22/12/10
- Plan 4 SUBDIVISION LAYOUT WITH SITE SERVICE (Ref 09106-DA1) dated 22/03/2010
- Plan 5 ROAD HIERARCHY and ROAD WIDTH (Ref 09106-DA1) dated 22/03/2010
- Plan 6 ZONE ALIGNMENT (Ref 09106-DA1) dated 22/03/2010

as amended in red and/or supporting documents submitted with the application. Copies of the approved plan are attached to this consent.

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

### LAND DEDICATION

2 This consent does not approve the proposed land dedication investigation area for sports field extension (approximately 1ha) as shown overdrawn on the approved plans in red.

**Note:** *This consent may be modified at a later date subject to an appropriate application being made to modify this consent to satisfy Council's requirements for dedication of land against offsets in s.94 contributions payable. Any such application will need to be made prior to the payment of any applicable s.94 contributions.*

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

### SUBDIVISION

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

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

- 4 Nothing in this consent shall prohibit the creation of a 'development lot' and a 'residual lot' subject to the submission and approval of a Subdivision Certificate application consistent with the lot layouts approved under this consent, to enable initial separation of rural lots from village lots .

**Prior to the making of any such Subdivision Certificate application**, the Applicant shall obtain written advice from Council as to the conditions of consent and other matters that need to be addressed as part of any Subdivision Certificate application for the above purpose.

**Reason:** *To enable the creation of a development lot and residual lot.*

- 5 **Prior to release of the Subdivision Certificate** the proponent shall place street numbers identification at the road frontages of the property to indicate the property address.

**Reason:** *To identify the property correctly (EPA Act Sec 79C(e)).*

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

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

## DRAINAGE

- 7 **Prior to release of the Construction Certificate** the detailed design of stormwater drainage systems shall ensure the discharge of stormwater from the site shall be limited to the pre-development flow (rural flow) for an ARI of 10 years and a time of concentration of 6 minutes. On-site retention of stormwater shall be encouraged to achieve this requirement.

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

- 8 The proponent shall make satisfactory provision for existing lots adjoining the property and the proposed lots to dispose of stormwater without causing a nuisance to other lots. Particular attention should be paid to existing stormwater flows from adjoining Lot 2 in DP4890. An adequate drainage system shall be constructed to ensure that all roof water and/or surface water from paved areas from any existing or proposed lots can be directed to a discharge point to prevent intensification of discharge runoff onto adjoining land. All works are to be constructed according to Council's Development, Design and Construction Manual (as amended). All drainage lines are to be located within drainage easements. Any stormwater line with an area of influence from the stormwater line measured by projecting a 45° angle from the invert of the main to surface level extending outside of the easement shall be covered by a restriction on use requiring any structure within this area to be pierced to the stormwater invert level. All costs shall be the responsibility of the proponent.

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

- 9 **Prior to the release of the Construction Certificate** full design and construction details of the stormwater management system proposed for the development shall be submitted to Council for approval under Section 68 of the Local Government Act. Stormwater control and treatment measures as identified within the development application shall be installed and lot level requirements reflected upon the title of the lots **prior to the release of the Subdivision Certificate**.

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

- 10 **Prior to the issue of a Subdivision Certificate**, a section 88B instrument under Part 6 Division 4 of the Conveyancing Act 1919 is to be prepared with respect to each of the proposed lots 1 to 23, indicating that all future dwellings require a minimum 5,000 litre BASIX rainwater tank which is to be dual plumbed to toilets/garden.

**Reason:** *To manage stormwater quantity. (EPA Act Sec 79C(b)).*

- 11 The dry sediment basin and associated infrastructure will be constructed upon the residual Lot 24. An easement to the benefit of Council is to be created over the dry sediment basin and associated infrastructure proposed on the residual Lot 24.

The developer shall be responsible for ongoing maintenance of the dry sediment basin and associated infrastructure during the course of the subdivision construction and up until two (2) years from the release of the **Subdivision Certificate** for all the proposed village residential lots. The maintenance inspection requirements are to be as listed within the Stormwater Report details in "Appendix 1", with the final version to be as approved by Council.

**Reason:** *To manage stormwater infrastructure and protect the environment.*

- 12 The developer is to enter into a registered legal agreement that binds any subsequent land title holder of the residue Lot 24 to the obligation to undertake the maintenance of the dry sediment basin and associated infrastructure on the same terms and conditions as the original developer. The terms of the agreement are to be drawn up by Council's nominated Solicitor generally in line with the above intent, solely at the Applicants cost to the satisfaction of Council.

**Reason:** *To manage stormwater infrastructure and protect the environment.*

## SEDIMENT AND EROSION

- 13 Erosion and Sediment control measures shall be put into place and be properly maintained to prevent soil erosion and the transport of sediment from the site and into natural or constructed drainage lines or watercourses. Measures must

- maximise the diversion of clean waters, and
- minimise the extent and duration of site disturbance, and
- include devices/practices to prevent sediment being carried from the site by vehicle and plant tracks and tyres.

All disturbed areas shall be stabilised and revegetated. Turfing or another approved seeding method shall be undertaken in each part of the development within 14 days of completion of earthworks. Topsoil shall be preserved for site revegetation. All control measures must be regularly inspected and be maintained to ensure they operate to the design requirements and to meet all relevant environment protection standards. Weather patterns must be monitored and be coordinated in with the inspection and maintenance procedures. Control measures are to remain in place until the site has been adequately revegetated or landscaped to prevent soil erosion.

**Reason:** *To ensure the proper management of the site with regard to soil erosion and sedimentation*

- 14 **Prior to release of the Construction Certificate or commencement of any works** upon the site a "Soil Erosion and Sedimentation Control Plan of Management" (SESCPM) must be submitted to and approved by Council. The plan must outline what measures are proposed and the action that will be taken to manage the completion of the development to minimise any erosion or sedimentation from the site in accordance with the requirements of **Condition No. 13**. The plan must be consistent with the "*Managing Urban Stormwater-Soils and Construction*" (blue book). It must have a summary sheet and be in plain English to ensure that it is capable of being readily understood and implemented by the site managers and operators and nominated responsible person/s. Responsible person/s must be nominated to Council in writing together with full 24 hour per day contact details for the purposes of the SESCOPM.

**Reason:** *To ensure the proper management of the site with regard to soil erosion and sedimentation.*

## EARTHWORKS

- 15 **Prior to release of the Construction Certificate**, certification from a practising qualified engineer experienced in soil mechanics is required verifying the following:

- proposed civil engineering works, including retaining walls, have been assessed as structurally adequate,
- proposed civil engineering works will not be affected by landslip either above or below the works,
- proposed civil engineering works will not be affected by subsidence either above or below the works, and
- adequate drainage has been proposed to ensure the stability of the proposed civil engineering works .

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

- 16 **Prior to the release of the Subdivision Certificate**, a NATA registered geotechnical testing authority shall submit documentary evidence in the form of level 1 certification, certifying that any lot fill material has been placed in accordance with Australian Standard 3798 "Guidelines on earthworks for commercial and residential developments".

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

## VEHICULAR ACCESS

- 17 **Prior to the release of the Subdivision Certificate** the proponent shall repair any damage to infrastructure within the road reserve arising due to the construction of the proposed development. Evidence is to be provided to the Council indicating the pre development condition of the surrounding public infrastructure. Any damage arising from construction activities to roads, kerb and gutter, footpaths or any other infrastructure within the road reserve shall be reinstated in accordance with Council's Development, Design and Construction Manuals (as amended) to Council's satisfaction.

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

## ROADS AND FOOTPATH

- 18 **Prior to the commencement of works**, the developer is to submit reports from a suitably qualified Arborist and Engineer, assessing the health of the tree cluster at the start of Cowley Road and their impact upon the safety of vehicles (from collision with the trees), power lines and pedestrians.

**Reason:** To ensure the safety of vehicle occupants and the public and to ensure adequate access for the development.

- 19 The proponent shall provide the following roadworks with associated stormwater drainage structures that have been designed and constructed in accordance with Council's Development, Design and Construction Manual (as amended). The proponent shall be responsible for any costs, including maintenance, for a period of six months from the date of approval of completion of the work. The required roadworks include:

- Construction of an urban, AC bitumen sealed road shape with a width of 9 m between kerbs in a 20 metre road reserve: for the full length of the proposed roads, being: the connection of the existing ends of May Street and the connection of Donaghue Street to May Street.
- In the event that the Arborist Report (required as per Condition 18 above) finds that due to the poor health of the cluster of trees that they have to be removed, then the pavement is to be reconstructed to a 7m wide gravel formation comprising a minimum depth of 300 mm of compacted gravel, and including a bitumen sealed surface 5m wide from the intersection with James Street towards the eastern boundary of proposed lot 23.
- In the event that the Arborist Report advises that the trees are to be retained, the Engineers Report, including plans submitted for Council approval, will detail the additional line marking and traffic control that will be required to ensure the safety of the road users. All works will be at the Applicant's expense.
- Delineation of the intersection layout at the junction of both Donaghue and May Streets with James Street by the erection of "Give Way" Regulatory signage and linemarking accordance with AUSTROADS Pt 5 "Intersections at Grade".

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

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

- 20 **Prior to the release of a Subdivision Certificate** the proponent shall construct a 1.5 m wide reinforced concrete, paving block or equivalent footpath, leading from May Street to the Sports Field as shown on Plan 5 Road Hierarchy and Road Width (Newton Denny Chapelle Drawing) in accordance with Council's Development, Design and Construction Manuals (as amended) and AS1428. Any costs shall be the responsibility of the proponent.

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

- 21 **Prior to issue of the Subdivision Certificate**, street signage in accordance with Council's adopted standard shall be erected at all new street intersections.

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

- 22 **Prior to the release of the Subdivision Certificate** a minimum 4 m wide asphaltic concrete (25mm depth) sealed or equivalent driveway with kerb and gutter on one edge shall be constructed for the full length of the access shaft of Lots 16 and 17. A right of access shall be created over the constructed driveway giving benefit to Lots 16 and 17. All works shall be constructed in accordance with Council's Development, Design and Construction Manuals (as amended). Provision shall be made for the future supply of the following services within the access shaft:

- water supply
- stormwater
- telephone
- power.

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

- 23 **Prior to the release of the Subdivision Certificate** a 3.0m wide asphaltic concrete (25mm depth) sealed or equivalent driveway shall be constructed commencing from the road pavement for the full length of the access shaft of Lot 12. All works shall be constructed in accordance with Council's Development, Design and Construction Manuals (as amended). Provision shall be made for the future supply of the following services within the access shaft:

- water supply
- stormwater
- telephone
- power.

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

- 24 The grade from the road pavement to each lot shall permit the construction of vehicular access in accordance with Council's Design and Construction Specification (Vehicular Access). Engineering design working drawings shall provide evidence of the feasibility of lot access. Such drawings shall be submitted for Council approval with the Construction Certificate.

**Reason:** To ensure adequate access for the development. (EPA Act Sec 79C(b))

- 25 **Prior to commencement of any works** upon the site the proponent shall obtain a Construction Certificate for the proposed works. The Construction Certificate application shall include full design details of the proposed engineering works to satisfy the relevant conditions of this consent. Such application shall be accompanied with the relevant fee, as adopted at the time of the relevant payment, as indicated in Council's Fees and Charges.

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

**Reason:** To ensure an adequate road network in accordance with adopted standards. (EPA Act Sec 79C(a)) and to comply with requirements of EPA Act Sec 81A(4)

- 26 **Prior to the issue of the Construction Certificate** approval under section 138 of the Roads Act for the all works upon the public road shall be obtained. For this approval full design plans of the proposed engineering works required upon the public road shall be submitted to and approved by Council. Plans shall include details of works required to satisfy the conditions of this consent. Such plans shall be accompanied with the fee, as adopted at the time of the relevant payment as indicated in Council's Fees and Charges.

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

- 27 The proposed road reserve at the northern end of May Street shall be a maximum width of 20m. The additional land shown as road reserve within the approved plan shall be dedicated to Council as public reserve in the plans to accompany the Subdivision Certificate application.

**Reason:** *To ensure that public lands are appropriately classified.*

- 28 The design of the May Street extension is to have regard to producing a "low speed environment" for the road by the inclusion of raised pavement, thresholds treatments or line markings. Details of the proposed "low speed environment" treatments are to be discussed and agreed by Council's Development Engineer **prior to the submission of final road design plans for the Construction Certificate.**

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

## PUBLIC TRANSPORT

- 29 The proponent shall provide a tapered bus bay including a timber and metal clad bus shelter in accordance with Council's standard Drawing No.SD1256. Details of the location of the proposed bus shelter is to be submitted to and approved by Council **prior to the issue of the Construction Certificate.** The bus shelter shall be provided at no cost to Council.

**Reason:** *To provide for adequate public transport infrastructure (EPA Sec 79C(e))*

## PUBLIC RESERVE

- 30 **Prior to the release of the Subdivision Certificate** the land to be dedicated as public reserve shall be slashed, weed free and cleared of all surface rocks to the satisfaction of Council's Parks and Reserves Section.

**Reason:** *To ensure that the land is in a satisfactory condition to be utilised and maintained as open space.*

- 31 **Prior to the release of the Construction Certificate** full details of the proposed landscaping within the land to be dedicated as public reserve shall be submitted to and approved by Council. **Prior to the release of the Subdivision Certificate** the proponent shall obtain written confirmation from Council's Parks and Reserves section that the gardens within the public reserve have been landscaped to the satisfaction of Council's Parks and Reserves section.

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

- 32 Bollards, or similar, are to be erected for the length of the proposed road reserve at the northern end of May Street that is required to be dedicated as public reserve by Condition 27. Details of the specific location and design of the proposed bollards are to be submitted to and approved by Council **prior to the issue of the Construction Certificate.**

**Reason:** *to prevent unauthorised parking on the public reserve.*

## PUBLIC UTILITIES

- 33 **Prior to release of the Subdivision Certificate**, the proponent shall ensure the provision of telephone services is provided to all lots. A Certificate of Compliance from the relevant utility provider shall be required confirming that the respective utility's requirements have been met.

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

- 34 **Prior to release of the Subdivision Certificate**, a Certificate of Compliance from the relevant service provider shall be required confirming that it has provided underground electrical power to each lot, adequate street lighting for the development as required by the Australian Standard and that charges for the extension of electricity supply have been paid.

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

## ON-SITE EFFLUENT DISPOSAL

- 35 **Prior to the issue of a Subdivision Certificate**, a section 88B instrument under Part 6 Division 4 of the Conveyancing Act 1919 is to be prepared with respect to each of the proposed lots 1 to 23, indicating:

- Any future development which generates sewage or domestic wastewaters must have installed an on-site sewage management facility designed to manage all wastes in accordance with Council's On-Site Sewage and Wastewater Management Strategy.
- That preference in the design of an on-site sewage management facility must initially be given to low technology gravity fed options.
- The base of any evapotranspiration/absorption trenches must be constructed into natural and not filled land.
- To satisfy the various site and soil structure limitations, secondary treatment may be required and in some instances secondary treatment to BOD 20mg/litre may be necessary.
- The siting and scale of any building or other development on any lot must take into account the potential site limitations that may impact on on-site sewage management and particularly the location of effluent disposal fields.

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

- 36 The width of Lot 6 is to be increased by a minimum of 5m by adjusting the width of Lots 7, 8 and 11. A plan showing this amendment is to be submitted to and approved by Council **prior to the issue of the Construction Certificate.**

**Reason:** *To provide an increase in the area available on Lot 6 to site a dwelling and on-site effluent disposal system that complies with Council's policies.*

## CONTAMINATION

- 37 **Prior to the commencement of any work on the site** a detailed contaminated land investigation must be carried out by a suitably qualified professional in accordance with the requirements of the *NSW Managing Land Contamination Planning Guidelines* (guidelines) to determine the extent and degree (laterally and vertically) of all lead and asbestos contamination.

**Reason:** *To determine the extent and degree of land contamination.*

- 38 **Prior to the commencement of any work on the site** and following the detailed investigation, a site Remedial Action Plan (RAP) must be prepared for the land by a suitably qualified professional and must be approved by Council. The RAP must address and manage all risks, including occupational health and safety matters, erosion and sediment control, dust management, waste management, and include appropriate validation and monitoring procedures. Induction procedures must be carried out for all appropriate personnel and this must be recognised in the plan. The RAP must be supervised by a suitably qualified professional who must be nominated to Council in writing together with full 24 hour per day contact details. The RAP must also address Schedule 2 of the Lismore City Council Regional Policy for the Management of Contaminated Land, June 2007.

**Reason:** *To ensure the proper management of land contamination.*

- 39 **Prior to the issue of a Subdivision Certificate** a validation report and certification prepared by a suitably qualified professional in accordance with the requirements of the *NSW Managing Land Contamination Planning Guidelines* demonstrating that the objectives of the RAP have been complied with must be submitted to and be approved by Council.

**Reason:** *To ensure the proper management of land contamination.*

## WASTE MANAGEMENT

- 40 **Prior to the commencement of any work on the site** a Waste Management Plan, in accordance with the provisions of Part A, Chapter 15 – Waste Minimisation of Lismore Development Control Plan, must be submitted to and approved by Council.

**Reason:** *To comply with the requirements of Lismore DCP.*

- 41 All waste materials generated from the development shall only be disposed of at licensed waste management facilities capable of receiving the waste as classified under the NSW Department of Environment and Climate Change (EPA) guideline document '*Waste Classification Guidelines: Part 1 Classifying Waste 2008*'.

**Reason:** *To protect the environment and manage wastes appropriately.*

**NOISE AND LIGHTING**

42 **Prior to the issue of a Subdivision Certificate** a restriction as to user, pursuant to Section 88 of the Conveyancing Act 1919, is to be prepared and registered on the title of Lot 23, indicating:

- Any future application for a dwelling house or structure proposed for residential habitation shall be accompanied by a detailed noise impact assessment which addresses the operational activities of the adjoining sports club and sports ground facilities and demonstrates that the dwelling house or structure proposed for residential habitation can comply with the Evening and Night time Project Specific Noise Level of 37dB(A).
- Any future application for a dwelling house or structure proposed for residential habitation shall be accompanied by a detailed light spill assessment referencing Australian Standard 4282 - *Control of the Obtrusive Effects of Outdoor Lighting*. The assessment must address the operational activities of the adjoining tennis courts and the impact of light spill on the proposed residence and include appropriate recommendations to ensure the design of the residence provides for reasonable amenity for future occupants.

**Reason:** *To ensure a reasonable level of amenity is provided for future occupants of and residence.*

**WATER and SEWER**

43 A Certificate of Compliance issued by Lismore City Council, under the provisions of Section 305-307 of the Water Management Act 2000, must be obtained and submitted to the Principal Certifying Authority and Council **prior to release of any linen plan for subdivision.**

Notes:

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

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

44 A Certificate of Compliance from **Rous Water**, under the provisions of Section 305-307 of the Water Management Act 2000, must be obtained and submitted to the Principal Certifying Authority and Council **prior to release of any linen plan for subdivision..**

Notes:

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

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

**ECOLOGY**

45 All native trees located on and/or near the southern boundary of the subject site are to be retained.

**Reason:** *To ensure that significant landscape trees that may provide habitat and forage threatened species and contribute to the local amenity are retained.*

46 Camphor Laurel specimens at any stage of growth are to be removed from the subject site.

**Reason:** *To ensure eradication of Camphor Laurel on the subject site.*

- 47 Any exotic plant species declared noxious under the Noxious Weeds Act 1993 in the control area of the Far North Coast County Council, or plants declared as Weeds of National Significance by the Australian Weeds Strategy are to be controlled on the subject site.

Weeds are to be controlled in accordance to the control requirements for each of the five classes of noxious weeds identified in the Act.

A plan for the control of Noxious Weeds and Weeds of National Significance is to be incorporated in the Vegetation Management Plan as required by Condition 50.

**Reason:** *To ensure appropriate control of weed species on the subject site.*

- 48 The drainage gully immediately to the east of the proposed village subdivision is a first order watercourse. **Prior to the issue of a Subdivision Certificate** a riparian corridor extending to a width of 20m on the eastern side and up to the eastern boundaries of approved Lots 6 to 11 on the western side of the gully (as measured from the centre of the channel) is to be revegetated in accordance with the following guidelines:

- Raine & Gardiner (1997). *Revegetating Streams in the Richmond Catchment: A Guide to Species and Planting Methods*. Department of Land and Water Conservation NSW, Maitland, NSW. (Contained in Lismore City Council (2007). *Landscape Guidelines*. Lismore City Council, Lismore, NSW)

**Reason:** *To ensure that the width of proposed riparian corridors meet NSW State Government guidelines.*

- 49 A plan and details for the revegetation of the riparian corridor and the buffer plantings on Lot 11 are to be incorporated in the Vegetation Management Plan as required by Condition 50.

**Reason:** *To ensure that the width of proposed riparian corridors meet NSW State Government guidelines.*

- 50 **Prior to commencement of works** a Vegetation Management Plan, based on the approved lot layout plan, is to be prepared and submitted to Council for approval. The Vegetation Management Plan shall be prepared in accordance with structure and content of the: Lismore City Council (2010). *Guidelines for the preparation of Vegetation Management Plans*. Lismore City Council, Lismore, NSW

The Vegetation Management Plan shall be prepared and implemented by person(s) with appropriate knowledge, qualifications and experience in current best practices for indigenous vegetation rehabilitation and management as detailed in the above guidelines.

**Reason:** *To ensure appropriate management and rehabilitation of retained native vegetation, weed management and the revegetation of cleared areas. To ensure that the Vegetation Management Plan can be assessed in accordance with both NSW State Government and Lismore City Council guidelines.*

- 51 A monitoring report relating to the implementation of the approved Vegetation Management Plan shall be submitted to Council:

1. at the completion of primary planting and **prior to the issue of a Subdivision Certificate**; and
2. at annual intervals until the end of the five (5) year maintenance period.

A final monitoring report shall also be submitted upon completion of the maintenance period.

**Reason:** *To ensure that implementation of the approved Vegetation Management Plan meets performance criteria established in the plan.*

- 52 **Prior to the issue of the Subdivision Certificate** a Restriction on Use, under Part 6 Division 4 of the Conveyancing Act 1919, is to be placed on the title of proposed Lot 11 indicating:

- a. The Buffer Planting at the northern boundary of proposed Lot 11 shall be established and retained as a conservation area;
- b. For the purpose of maintaining the Buffer Planting, access to the Buffer Planting shall be provided to person(s) acting on the approved Vegetation Management Plan for the five (5) year term of this plan;

- c. Unrestricted access to the buffer planting area is to be made available to the users of the adjoining public reserve for the purpose of retrieving balls and equipment;
- d. Stock shall be excluded from the Buffer Planting by appropriate fencing;
- e. No vegetation clearing, altering of vegetation structure or damage to vegetation shall be permitted within the Buffer Planting except as required to remove Noxious Weeds, Environmental Weeds or other exotic plant species;
- f. The fencing erected around the buffer plantings shall maintained in working order and shall not be removed, damaged or allowed to fall into disrepair at any time;
- g. The buffer area shall be managed in accordance with the approved Vegetation Management Plan prepared for the site; and
- h. In accordance with the Vegetation Management Plan for the subject site, the buffer area shall be maintained such that there is a maximum of 5% Environmental Weed cover (as listed by North Coast Weeds) and the land is 100% free of Noxious Weeds declared within the Lismore Local Government Area.

**Reason:** *To ensure that the conservation area is kept free of stock and is maintained in perpetuity by the owner of the subject site.*

53 **Prior to the issue of the Subdivision Certificate** a Restriction on Use, under Part 6 Division 4 of the Conveyancing Act 1919, is to be placed on the title of proposed Lot 19 indicating:

- a. The Small-leaved Fig (*Ficus obliqua*) situated in the north western portion of Lot 19 as identified in Plan 3 – Proposed Subdivision Layout is not to be removed from the lot.
- b. The land directly under the canopy of the tree is to be kept free of Noxious Weeds, Environmental Weeds and any other exotic shrub or tree species (e.g. Camphor Laurel)

**Reason:** *To ensure that the conservation area is kept free of stock and is maintained in perpetuity by the owner of the subject site.*

54 **Prior to the issue of the Subdivision Certificate** a Restriction on Use, under Part 6 Division 4 of the Conveyancing Act 1919, is to be placed on the title of proposed Lot 24 indicating:

- a. The Riparian Corridor revegetation encompassing the first order watercourse immediately to the east of the proposed subdivision shall be established and retained as a conservation area. The minimum width of the Riparian Corridor Planting on both sides of the watercourse shall be 20 m measured from the centre of the channel;
- b. For the purpose of maintaining the Riparian Corridor revegetation, access to the Riparian Corridor Planting shall be provided to person(s) acting on approved Vegetation Management Plan for the five (5) year term of this plan;
- c. Stock shall be excluded from the Riparian Corridor revegetation by appropriate fencing;
- d. No vegetation clearing, altering of vegetation structure or damage to vegetation shall be permitted within the Riparian Corridor except as required to remove Noxious Weeds, Environmental Weeds or other exotic plant species;
- e. The fencing erected around the Riparian Corridor revegetation shall maintained in working order and shall not be removed, damaged or allowed to fall into disrepair at any time;
- f. The Riparian Corridor revegetation area shall be managed in accordance with the approved Vegetation Management Plan prepared for the site;
- g. In accordance with the Vegetation Management Plan for the subject site, the Riparian Corridor revegetation area shall be maintained such that there is a maximum of 5% Environmental Weed cover (as listed by North Coast Weeds) and the land is 100% free of Noxious Weeds declared within the Lismore Local Government Area.

**Reason:** *To ensure that the conservation area is kept free of stock and is maintained in perpetuity by the owner of the subject site.*

## ABORIGINAL SIGNIFICANCE

55 Any person shall not knowingly destroy, deface or damage any Aboriginal relic or other item of archaeological significance within the works area without the prior written consent of the Department of Environment, Climate Change and Water (DECCW).

*Reason: To protect Aboriginal and Archaeological significance.*

56 Upon discovery of any Aboriginal relics within the meaning of the National Parks and Wildlife Act 1974 (as amended) during site or excavation works, the developer and any person acting on their behalf shall immediately notify the DECCW, the local Aboriginal Land Council and Council and shall cease operations within the vicinity thereof until such time as the consent of the DECCW is obtained (if required) for the destruction, removal or protection thereof and the developer has complied with the directions of the DECCW in that respect. The developer shall provide to Council copies of any direction given by the DECCW in respect of Aboriginal relics that are subject of this condition.

*Reason: To protect Aboriginal and Archaeological significance*

## PLANNING

57 The Riparian Corridor revegetation on the western side of the existing gully is to be extended to the eastern boundary of proposed Lots 6 to 11.

*Reason: to restrict grazing on the part of the site between the village residential lots and the riparian revegetation.*

58 Stock proof fence is to be erected so as to prevent stock from the residual Lot 24 entering the village residential lots and the proposed Riparian Corridor revegetation area adjacent to the gully.

*Reason: To protect the riparian vegetation and the village residential lots.*

## CRIME PREVENTION

59 The minimum width of any pathway is to be 1.5m

*Reason: To encourage the use of the pathways.*

60 Five (5) metres on either side of the pathway between May Street and Balzer Park are to include low height (600mm or below) plantings. Vegetation outside this 5 metre setback is to graduate up in height. Details of these plantings adjacent to this footpath are to be submitted to and approved by Council **prior to the issue of the commencement of works.**

*Reason: To increase the safety of the pathways.*

61 Security lighting is to be provided in accordance with AS1158.3.1:2005 for the pedestrian pathway from May Street to Balzer Park. Details are to be submitted to and approved by Council **prior to the issue of the Construction Certificate.**

*Reason: To increase the safety of the pathways and existing pedestrian thoroughfare.*

62 Security lighting provided along the approved pathways is to be designed to be vandal resistant.

*Reason: To target harden approved infrastructure.*

## CONTRIBUTIONS

63 Payment of contributions levied under Section 94 of the Environmental Planning and Assessment Act and Lismore Contributions Plan 1999 (as amended) are required. Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect on the date the **Subdivision Certificate is released.** The rates and amounts applying at the date of this notice, totalling **\$156,785**, are set out in the schedule for your information. Where the total contribution payable exceeds \$20,000 payment to Council must be by bank cheque or cash. Personal cheques are not acceptable. All contributions, bonds etc. shall be paid **prior to the release of the Subdivision Certificate.**

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

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

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

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

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

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

## INTEGRATED DEVELOPMENT GENERAL TERMS OF APPROVAL

### GENERAL TERMS OF APPROVAL UNDER RURAL FIRES ACT 1997

- 1 Water, electricity and gas are to comply with Section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

**Reason:** To provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

- 2 Public road access shall comply with Section 4.1.3(1) of 'Planning for Bush Fire Protection 2005'.

**Reason:** To provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.

#### General Advice – Consent Authority to Note

- This approval is for the subdivision of the land only. Any further development application for class 1, 2 and 3 buildings, as identified by the 'Building Code of Australia' must be subject to separate application under Section 79BA of the EP & A Act and address the requirements of 'Planning for Bush Fire Protection 2006'.

### GENERAL TERMS AND CONDITIONS UNDER WATER MANAGEMENT ACT 2000

#### For works requiring a Controlled Activity Approval under the Water Management Act 2000

|                                 |   |          |         |
|---------------------------------|---|----------|---------|
| Our Reference                   | <b>30 ERM2010/0429</b>  | File No: | 9053513 |
| Site Address                    | 5 Donaghue Street, Dunoon   |          |         |
| DA Number                       | <b>DA 5.2010.123.1</b>  |          |         |
| LGA                             | Lismore City Council  |          |         |
| Number                          | Condition   |          |         |
| Plans, standards and guidelines |   |          |         |
| 1                               | <p>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA 5.2010.123.1 and provided by Council.</p> <p>Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.</p> |          |         |

|   |   |
|---|---|
| 2   | Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.  |
| 3   | The consent holder must prepare or commission the preparation of: <ul style="list-style-type: none"> <li>(i) Vegetation Management Plan</li> <li>(ii) Works Schedule</li> <li>(iii) Erosion and Sediment Control Plan</li> <li>(iv) Soil and Water Management Plan</li> </ul>   |
| 4   | All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The plans must be prepared in accordance with the NSW Office of Water guidelines located at <a href="http://www.dwe.nsw.gov.au/water_trade/rights_controlled.shtml">www.dwe.nsw.gov.au/water_trade/rights_controlled.shtml</a> <ul style="list-style-type: none"> <li>(i) Vegetation Management Plans</li> <li>(ii) Riparian Corridors</li> <li>(iii) Outlet structures</li> </ul> |
| 5   | The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.  |
| <b>Rehabilitation and maintenance</b>           |   |
| 6   | The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.  |
| 7   | N/A   |
| <b>Reporting requirements</b>                   |   |
| 8   | The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.  |
| <b>Security deposits</b>                        |   |
| 9   | N/A   |
| <b>Access-ways</b>                              |   |
| 10  | N/A   |
| 11  | N/A   |
| <b>Bridge, causeway, culverts, and crossing</b> |   |
| 12  | N/A   |
| 13  | N/A   |
| <b>Disposal</b>                                 |   |
| 14  | The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.   |
|   |   |

| Drainage and Stormwater         |  |
|---------------------------------|--|
| 15                              | The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the NSW Office of Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the NSW Office of Water.     |
| 16                              | The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.   |
| Erosion control                 |  |
| 17                              | The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised. |
| Excavation                      |  |
| 18                              | The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.   |
| 19                              | N/A  |
| Maintaining river               |  |
| 20                              | N/A  |
| 21                              | N/A  |
| River bed and bank protection   |  |
| 22                              | N/A  |
| 23                              | The consent holder must establish a riparian corridor along the gully in accordance with a plan approved by the NSW Office of Water.   |
| Plans, standards and guidelines |  |
| 24                              | N/A  |
| 25                              | N/A  |
| 26                              | N/A  |
| 27                              | N/A  |
| END OF CONDITIONS               |  |

### INFORMATION TO APPLICANTS

#### ADVISORY NOTES

**NOTE 1:** In regard to any enquiries in relation to compliance with the above General Terms of Approval imposed by NSW Rural Fire Service, please contact Jason Hulston on telephone 02 08741 5175.

**NOTE 2:** In regard to any enquiries in relation to compliance with the above General Terms of Approval imposed by NSW Government Office of Water, please contact Vanessa Sultmann on telephone 02 6676 7382.

**NOTE 3:** The Subdivision Certificate shall not be released by Council until all conditions of Development Consent Notice 5.2010.123.1 as imposed by Lismore City Council have been complied with to the satisfaction of Council.

**NOTE 4: The proponent shall not commence** construction of any part of the water management works **prior to receiving an Activity Approval** specifically for the water management works and plans with Council's stamp of approval imprinted thereon. The proponent should note:

- a) A fee applies to the Activity Application. The fee is as adopted at the time of payment and is as set out in Council's Fees and Charges.
- b) If applicable, an approved Road Opening Permit and Traffic Management Plan must accompany the application for Activity Approval.
- c) Processing applications may take up to twenty-eight (28) days. Council will return the plans within twenty-eight (28) days of their receipt provided no amendments are required.
- d) A set of approved plans must be kept on site during construction. Variations proposed during construction must have Council's prior approval.
- e) All works shall be the subject of a Plumbing Permit and Minor Works Permit purchased from Council. Permit fees and inspection fees apply. The number of inspections will be nominated on the Activity Approval. Fees are as adopted at the time of payment and as set out in Council's Fees and Charges.

**NOTE 5:** This development approval does not guarantee compliance with the Disability Discrimination Act and the developer should therefore investigate their liability under the Act. Council can assist developers by directing them to Parts 2, 3 and 4 of Australian Standard 1428 - Design for Access and Mobility (Part 1 is mandatory in the BCA).

**NOTE 6: Dial before you dig** - Before you dig call "Dial before you dig" on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street number/name, side of street and the distance to the nearest cross street) for underground utility services information for any excavation areas.

**NOTE 7:** If the provision of services or the construction of any infrastructure or any other thing required by this consent occurs, and a GST is payable by Council, the applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of this consent.

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

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

## LISMORE CITY COUNCIL

**DEVELOPMENT CONSENT NO:** 5.2010.123.1

**ADDRESS:** 5 Donaghue Street, Dunoon

### IMPORTANT TO NOTE

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

To be read in conjunction with advice of development consent.

The levies imposed by Condition No. 63, as contributions towards the cost of meeting increased demand for public services and amenities that will result from the development, are identified in this Schedule.

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

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

| Levy Area                                     | Account No. | No. of ET's/m <sup>2</sup> | Cost Per ET/m <sup>2</sup> | Amount Payable   |
|---|-------------|----------------------------|----------------------------|------------------|
| <b>Recreation and Community Facilities</b>    |             |                            |                            |                  |
| Citywide All Areas ( <i>Discount of 25%</i> ) | 542         | 23                         | 945                        | \$16,301         |
| The North-East - Local                        | 545         | 23                         | 410                        | \$9,430          |
| <b>Street Trees</b>                           |             |                            |                            |                  |
| Residential                                   | 549         | 23                         | 220                        | \$5,060          |
| <b>Transport Plan</b>                         |             |                            |                            |                  |
| <b>Strategic Urban Roads</b>                  |             |                            |                            |                  |
| Residential                                   | 576         | 23                         | 5320                       | \$122,360        |
| <b>SES</b>                                    |             |                            |                            |                  |
| All areas                                     | 584         | 23                         | 64                         | \$1,472          |
| <b>Rural Fire Service Plan</b>                |             |                            |                            |                  |
| All areas                                     | 583         | 23                         | 94                         | \$2,162          |
| <b>Total</b>                                  |             |                            |                            | <b>\$156,785</b> |

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

The cost per ET is in accordance with the relevant Lismore Contributions Plan and/or Section 64 Plan applicable, as at the date of development application approval.

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

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

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

**COUNCIL USE ONLY**

**Cashier to Note:**

This section must be completed by a Financial Services Officer prior to receipt. I hereby certify that the fees payable have been checked to ensure that;

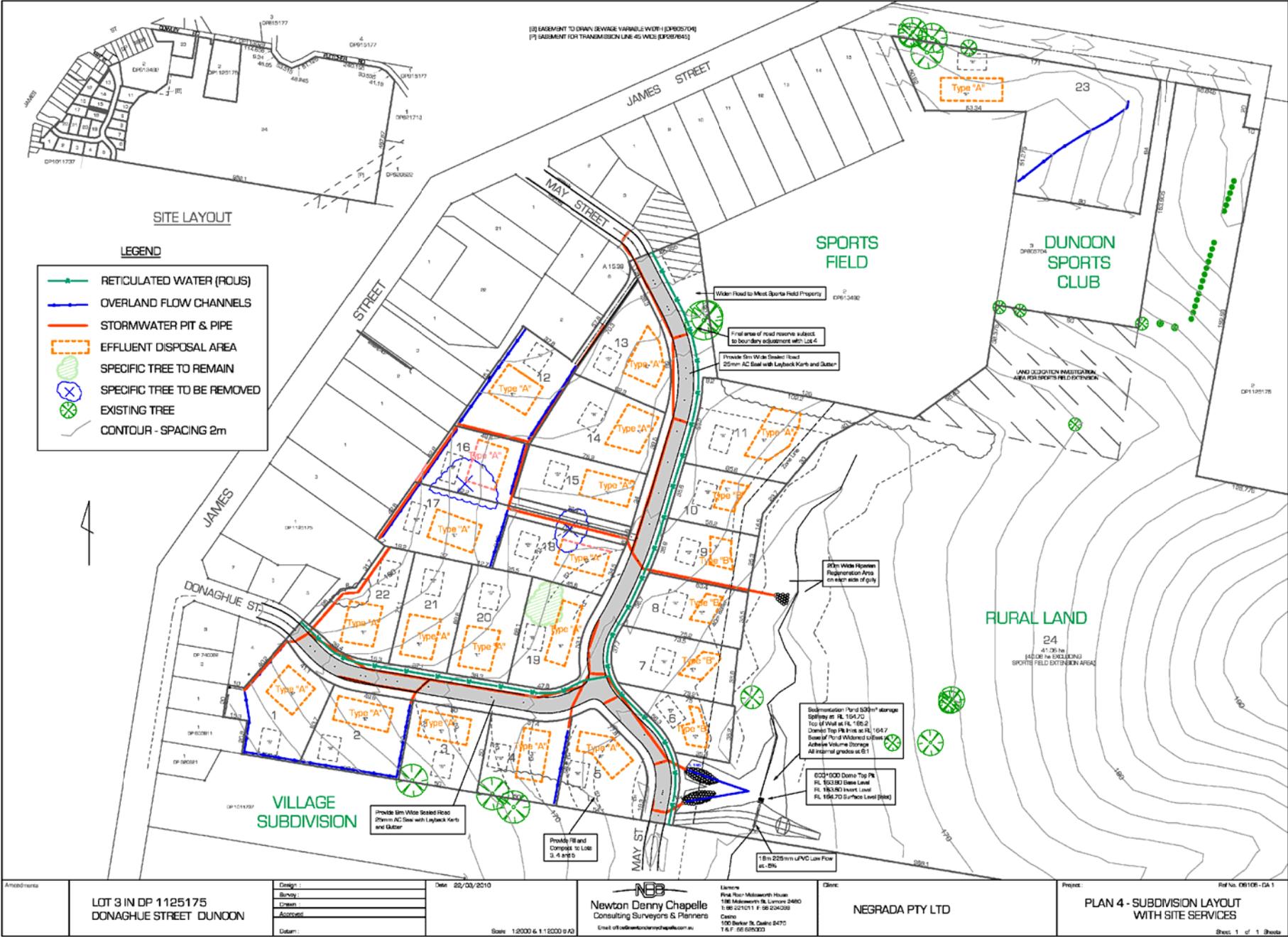
the Consumer Price Index has been applied to the schedule of Section 94 fees and Section 64 fees, where the period between the date of consent and the date of payment is in excess of twelve (12) months.

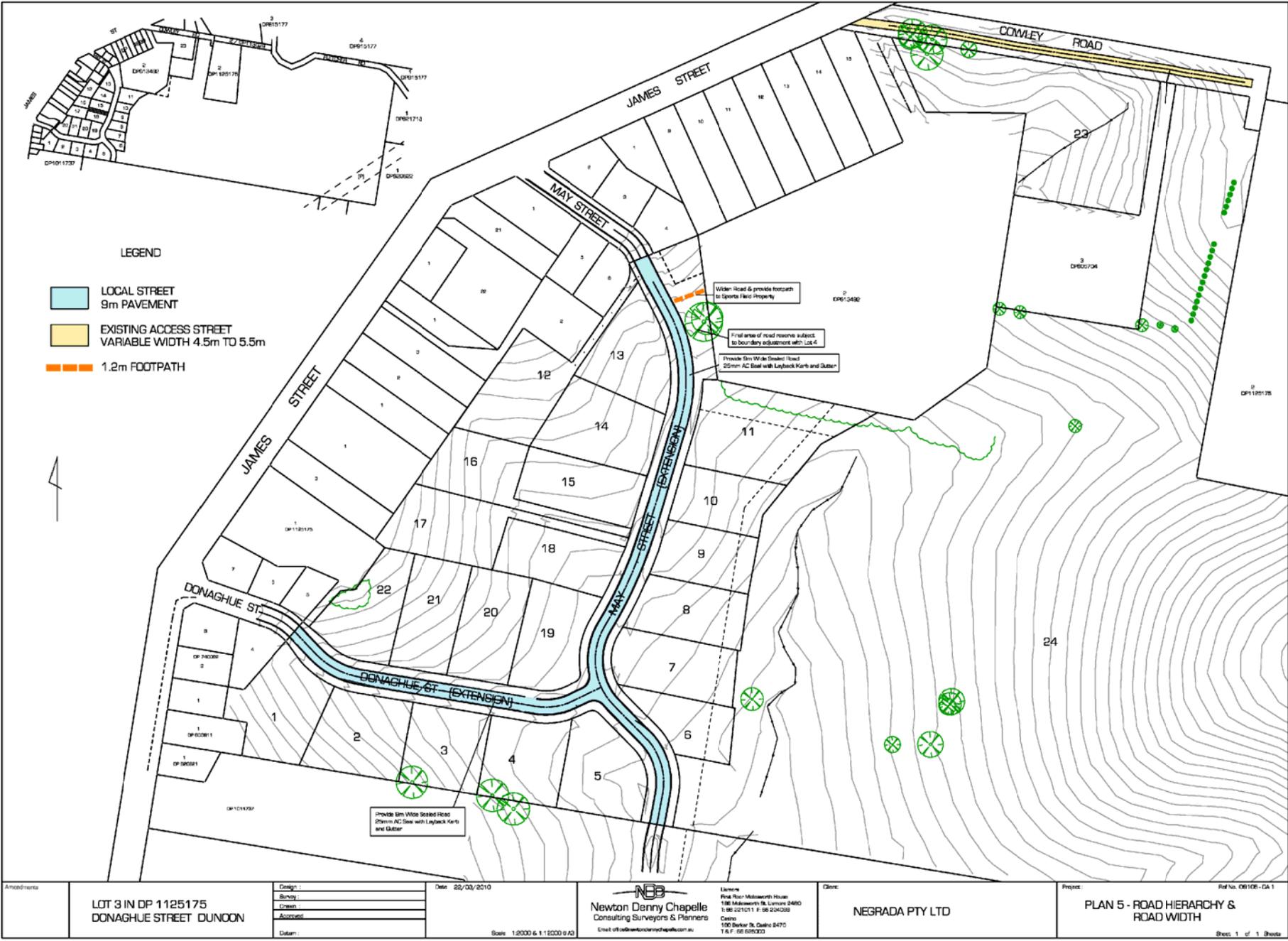
...../...../.....











|              |   |                  |                             |  |  |                            |   |                                       |
|--------------|---|------------------|-----------------------------|--|--|----------------------------|---|---------------------------------------|
| Amended name | Design:<br>Survey:<br>Drawn:<br>Approved:<br>Datum: | Date: 22/03/2010 | Scale: 1:2000 & 1:1000 @ A3 | <br>Newton Denny Chapelle<br>Consulting Surveyors & Planners<br>Email: info@ndc.com.au | License:<br>King Road, Midlaworth House<br>1188 Midlaworth Rd, Lismore 2480<br>T: 66 242111 F: 66 242028<br>Centre<br>100 Barker St, Casino 2470<br>T: 66 658202 | Client:<br>NEGRADA PTY LTD | Project:<br>PLAN 5 - ROAD HIERARCHY &<br>ROAD WIDTH | Ref No: DB10R - CA 1<br>Sheet: 1 of 1 |
|--------------|---|------------------|-----------------------------|--|--|----------------------------|---|---------------------------------------|





SG:16.2010.123.1

Shaun Goodenough

23 February 2011

Newton Denny Chapelle  
 PO Box 1138  
 LISMORE NSW 2480

## Notice of Requirements

|  |   |
|--|---|
| <b>Application Number:</b>   | 16.2010.123.1                               |
| <b>Applicants:</b>   | Newton Denny Chapelle                       |
| <b>Date of issue:</b>  | 23 February 2011                            |
| <b>This Notice of Requirements refers to Development Application Number:</b> | 5.2010.123.1                                |
| <b>Granted consent on:</b>   | .....                                       |
| <b>Development Description:</b>  | Subdivision to create 24 new lots           |
| <b>Land:</b>   | Lot 3 DP: 1125175, 5 Donaghue Street DUNOON |
| <b>Parcel Number:</b>  | 30322                                       |

In accordance with Section 306 of the Water Management Act, 2000 you are hereby given notice to:

1. Pay the levies set out in **Table A** of this Notice, and
2. Comply with the water management conditions set out in **Schedule 1** of this Notice.

Please be aware that any modification to the existing development consent may render this notice of requirements invalid. Any application to amend the development consent will require a corresponding application for a new notice of requirements. A review fee in accordance with Council's adopted Fees and Charges will apply.

### IMPORTANT TO NOTE

THIS NOTICE IS A LEGAL DOCUMENT. ENSURE THAT YOU READ THE DOCUMENT CAREFULLY, AND PARTICULARLY NOTE ALL ATTENDANT INSTRUCTIONS AND CONDITIONS

## Table A

### Local Government Act - Section 64 Contributions

The developer shall pay to Council all Water and Sewerage levies deemed necessary by Council and in accordance with Section 64 of the Local Government Act 1993. The rates and amounts applying at the date of this notice, totalling **\$259,550**, are set out below for your information. Such levies shall be paid, as required by Council, prior to being issued with a Section 305 - Certificate of Compliance.

Charges are levied to provide funds for the provision of services and facilities identified in Lismore City Council's and Rous Water's Development Servicing Plans as required by an increase in population or development activity (Water Management Act 2000, Sec 306).

| Levy Area   | Account No. | No. of ET's | Cost Per ET | Amount Payable   |
|---|-------------|-------------|-------------|------------------|
| Water and Sewerage Development Servicing charges are levied under Section 306 of the Water Management Act 2000 and amounts payable are set out below. |             |             |             |                  |
| <b>Water Supply</b>   |             |             |             |                  |
| Urban Reservoir Zone – Lismore Water  | 503         | 27.6        | \$1,234     | \$34,058         |
| Rous County Council (Except Nimbin)   | 509         | 27.6        | \$8,170     | \$225,492        |
| <b>Sewerage Services</b>  |             |             |             |                  |
| Lismore Sewer   | 507         | 0           | \$7,708     | \$0              |
| <b>Total</b>  |             |             |             | <b>\$259,550</b> |

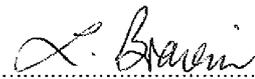
#### IMPORTANT TO NOTE

The rates and amounts shown against the various items above are those applicable as at date of this Notice of Requirements. Development Servicing Plans are reviewed every 3-5 years. The charges nominated in the Development Servicing Plans increase by CPI each year for the life of the plan.

Lismore Council and Rous Water Development charges are the adopted Development Servicing Charges per Equivalent Tenement (ET) current at the time of payment multiplied by the assessed number of ET's for the development - NOT the charge current at the time of consent adjusted by CPI to the time of payment.

The cost per ET is in accordance with the relevant Development Servicing Plan as at the date of this Notice.

LEVIES CORRECT - FINANCIAL SERVICES OFFICER



DATE 24/2/11

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

A COPY OF THIS ADVICE MUST BE PRESENTED WHEN MAKING PAYMENT

DATE:

CASHIER:

RECEIPT NO:

## Schedule 1

- 1 The proponent is required to construct the following water management works:
- An extension to the reticulated water supply system generally in accordance with Plan 4 – Subdivision Layout with Site Services (Ref No. 09106-DA 1) and property service connections to proposed Lots 1-22.

These works shall be carried out in accordance with Council's current specifications for the Design & Construction of Water and Sewer Reticulation Pipe Work.

**Reason:** To comply with the provisions of Council's Development Control Plan – 79C(a)(iii)EP&A Act 1979.

- 2 **Prior to being issued with a Construction Certificate** the proponent shall obtain approval under Section 68 of the Local Government Act, 1993 for the water supply and sewerage works required for this development. The proponent shall submit the appropriate Activity Application Forms accompanied by such information as is listed in Council's Activity Application Check-list. **Note:**
- a) The application shall be accompanied by four (4) full sets of design plans complying with Council's current specifications for the Design & Construction of Water & Sewer Reticulation Pipe Work. The use of electronic copies can be negotiated.
  - b) The proponent shall not commence construction of any part of the water supply and sewerage works before:
    - I. Receiving an Activity Approval specifically for the water supply and sewerage works and plans with Council's stamp of approval imprinted thereon.
    - II. Submitting a 'Notice to Commence Work' and conducting a pre-start meeting at least two (2) weeks in advance or works with Council's Inspection Officers.
  - c) A fee applies to the Activity Application. The fee is as adopted at the time of payment and is as set out in Council's Fees and Charges.
  - d) It is the responsibility of the proponent to obtain, if applicable, a Road Opening Permit and Traffic Management Plan.
  - e) Processing activity applications may take up to 40 days. Council will return approved plans within 40 days of their receipt provided no amendments are required.
  - f) A set of approved plans must be kept on site during construction. Variations proposed during construction must have Council's prior approval.
  - g) All works shall be the subject of a Plumbing Permit and Minor Works Permit purchased from Council. Permit fees and inspection fees will apply. All inspections recorded by the Inspector must be paid for prior to being issued with Certificate of Compliance. Fees are as adopted at the time of payment and as set out in Council's Fees and Charges.
  - h) All inspections are recorded in Council's Certificate of Compliance Register. Fees can be paid up-front (to be quoted), prior each inspection, at any time during construction or on completion of works. The developer is responsible for keeping their own inspection records and keeping account of inspection costs. A Certificate of Compliance will not be issued until all inspection fees are paid.

**Reason:** To comply with Section 68 (s68) of the Local Government Act, 1993.

- 3 **Prior to the release of the Subdivision Certificate** the proponent is required to apply to Council for a **Certificate of Compliance** for the water management works. The application shall be accompanied by:
- a) a set of "works-as-executed" plans;
  - b) complete asset record forms;
  - c) evidence the (Section 64) levies have been paid;
  - d) evidence all inspection fees have been paid;
  - e) evidence the scheduled bond has been paid, and
  - f) the licensee's Certificate of Compliance.

The licensee's Certificate of Compliance shall state that all water management works required by this development consent have been completed in accordance with Council's current specifications for the Design & Construction of Water and Sewer Reticulation Pipe work.

The proponent shall be responsible for any costs, including maintenance, for a period of six months from the date Council issues the Certificate of Compliance.

**Reason:** *To comply with Section 307 of the Water Management Act 2000.*

- 4 The proponent is required to create an easement over pipelines in accordance with Council's current specifications for the Design & Construction of Water and Sewer Reticulation Pipe-work.

Note: The width of an easement is determined by the depth and size of the pipeline.

The proponent shall obtain direction from Council confirming width prior to submitting an application for a Subdivision Certificate.

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

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

The Notice of Requirements shall become effective and operate from the date endorsed upon the Development Consent Notice.

#### **COMPLIANCE**

The development shall be carried out in accordance with the Development Consent, Activity Approval and "approved plans". **All conditions** shall be complied with during the operating life of the development.

#### **RIGHT OF APPEAL**

Granting of Certificates of Compliance shall be in accordance with Section 307 of the Water Management Act 2000.

#### **REVIEW OF DETERMINATION**

An applicant may request the Council to review a Notice of Requirements. The request for a review must be made within twelve (12) months after the date of the determination.

#### **LAPSING OF NOTICE OF REQUIREMENTS**

The Notice of Requirements operates concurrent to the development consent.

#### **EXTENSION OF CONSENT**

The Notice of Requirements operates concurrent to the development consent.

**MODIFICATION OF CONSENTS**

An applicant may apply to Council to modify this notice of Requirements.

**NOTICE TO COMPLETE**

Where development has been commenced, but the work not completed Council may issue a notice requiring completion of the work within a specified time, being not less than twelve months.

Shaun Goodenough  
**Investigations and Development Engineer**

Copy to: Mrs N K Balzer, 91 James Street, DUNOON NSW 2480

# Report

|                                      |  |
|--------------------------------------|--|
| <b>Subject</b>                       | <b>Lismore Tourist Caravan Park</b>  |
| <b>TRIM Record No</b>                | BP11/81:EF09/1040  |
| <b>Prepared by</b>                   | Manager - Assets   |
| <b>Reason</b>                        | To advise Council of the outcome of the Social Impact Assessment that has been undertaken and the results of the assessment of physical measures that could be implemented to increase evacuation times. Council approval is also sought for the next step in a process to determine the future use of the caravan park. |
| <b>Community Strategic Plan Link</b> | Social Inclusion and Participation   |

## Overview of Report

Council at its meeting of 14 December 2010 considered a report on options to increase evacuation time for residents of the caravan park and resolved to defer consideration of the matter until the social impact assessment of a potential closure of the park had been completed. The results of the social impact assessment, legal advice and input from Council's insurers were presented at a workshop on 15 February 2011.

This report presents that advice formally to Council as well as the options to increase evacuation time for residents of the caravan park, and makes recommendations on a process to follow leading up to the expiration of the current lease in December 2011. It is recommended that Council conduct an expression of interest process in an attempt to secure a new lessee for the facility.

## Background

The Lismore Tourist Caravan Park is located in Dawson Street adjacent to Browns Creek and Mortimer Oval. The area of the site is 15,400m<sup>2</sup> and contains 70 sites. A plan of the site is shown below:



The facility is leased by Council to a private operator with the current lease expiring on 31 December 2011. For the 2010/11 financial year Council will receive \$42,500 in lease fees.

At the meeting on 11 May 2010 Council considered a report that presented three options in regard to the future of the park and resolved that:

- “1. Within six months Council complete an evaluation of the effectiveness of structural works to extend evacuation time and reduce the isolation risk for residents of the Lismore Tourist Caravan Park in high rainfall/ flood events.*
- 2. Council conduct a social impact assessment of the [potential] closure and work with appropriate agencies to relocate the residents.”*

At the meeting on 14 December 2010 Council considered a report that presented the recommendations of a report prepared by consulting engineers GHD in response to Point 1 of the resolution of 11 May 2010 and resolved to:

- “1. Postpone any decision on this matter until February when the Social Impact Assessment is available.*
- 2. Prepare a report on evacuation procedures for the park for the February meeting.”*

## GHD Report

GHD's report suggests four options that could be utilised to achieve the intention of Council's decision of 11 May 2010. A copy of the report is attached to Councillors' business papers.

After considering the four options the recommendations from the report are:

1. Lismore City Council consider undertaking hydrologic modelling to determine if retardation basins would be feasible in improving the evacuation time for park occupants.
2. Lismore City Council consider undertaking hydrologic modelling to determine if raising the park level and carrying out compensatory earthworks would provide any improvement to the evacuation time for park occupants.
3. Lismore City Council consider undertaking hydrologic modelling to determine if the construction of a deflection wall and carrying out compensatory earthworks would improve evacuation time for park occupants, and at what height the deflection wall is feasible.

The fourth option considered was to increase the size of the Browns Creek pump station and increase the capacity to pump water out of the creek and into the river. This option was found not to be viable and therefore not considered further and does not form part of the recommendations.

## Examination of GHD Recommendations

In regard to Recommendation 2, this is not considered feasible. The physical works and cost to import fill, raise the level of the site and then re-establish the caravan park in the same location would be similar to those of relocating it to another less flood prone site. Relocation to another site was canvassed in the report to the Council meeting of 11 May 2010 and effectively ruled out due to the unavailability of a suitable site, planning restrictions that would apply and the ultimate cost of undertaking the work.

In regard to Recommendations 1 and 3, Council needs to consider carefully the practical aspects of these suggestions before embarking on any further investigations.

The construction of retardation basins, whilst potentially delivering a benefit in the form of increased evacuation times, would require the use of large areas of land to construct those basins. The only available space for such construction is in Lismore Park and/or the golf course areas. It is considered very unlikely that the general public would support the loss of a significant amount of public open space for this purpose. As such the further investigations suggested are not supported.

Constructing a deflection wall is likely to increase the available time to evacuate the park; however, it would create other issues that would also need to be addressed. The report highlights that adverse effects would be created by this approach. First of all, preventing water from entering the caravan park would increase flood levels in surrounding areas. Whilst the exact amount of the increase has not yet been quantified, this will undoubtedly be a concern for surrounding property owners.

Secondly, a pump would be needed to pump water resulting from rain that falls inside the deflector wall out into the creek. The amount of earth or structural walling required is extensive and will impact on the amenity and accessibility of surrounding areas.

Council also needs to be mindful of generating expectation in the general public and residents of the caravan park that a solution will be found and the caravan park can continue to function as it does now i.e. with long term residents staying at the park. Proceeding with further detailed assessment of any option will certainly heighten this expectation, when the outcomes of those processes are clearly not guaranteed.

The costs of hydraulic modelling etc. are also an issue. It is difficult to estimate exactly what the costs would be, however a minimum of \$25,000 could be expected.

It is considered more appropriate to re-examine evacuation procedures for the park and these are discussed in more detail later in the report.

## Council and Lessee Responsibilities

A number of issues have previously been identified in regard to the relationship between Council and the current lessee, the status of residents at the park, responsibilities of Council and the lessee in regard to the *Residential Parks Act* and Council's position in regard to insurance of the facility.

Advice has been sought from Council's insurer and a solicitor to clarify these issues. A copy of the confidential legal advice was provided to Councillors at the workshop on 15 February 2011 and is again attached for information. A copy of the confidential advice from Council's insurer is also attached.

This advice confirms that the current lessee will have certain responsibilities to the existing residents under the *Residential Tenancy Act* as he is the "owner of the park" in the sense that he has entered into the tenancy agreements with the residents. Whilst Council is not obliged to be a party to this process, Council should work with the lessee to ensure that a smooth transition occurs when the lessee leaves the facility.

The advice from Council's insurer provides Council with no option but to enforce the short stay provisions that apply to the park.

## Long Stay

There was some discussion at the Council Workshop regarding what processes could be undertaken to gain approval for long stay residents in the caravan park. This would require a development application to be lodged seeking approval for long stay residents. The advice from Council's planning staff is that such an application would not be approved because of the flood risk at the caravan park. The provisions of Council's LEP would not permit an approval to be issued for long stay residents.

It must also be noted that any approval for long stay residents would bring into consideration the applicable sections of the *Residential Parks Act*. These provisions require the park owner to enter into a written residential site agreement with tenants which would allow them to install relocatable homes or caravans with hard annexes on the site. Structures of this nature are not easily relocatable, and especially not at relatively short notice as is often the case at the caravan park during a flood. There is no ability for Council to vary the residential site agreements to prevent the installation of such dwellings because they form part of the minimum provisions for residential site agreements set out in the act. These minimum provisions cannot be amended to lessen or otherwise reduce the rights of a tenant or the park owner.

## External Stakeholder Input

Advice was sought from the SES regarding the situation at the caravan park. The following comments have been provided from Brian Griffin, Local Controller, on behalf of the Lismore SES:

*"Our position is and has been in accordance with our risk assessment that the likelihood of a serious flood caused incident in the Tourist Caravan Park is high and the potential consequence is believed to be catastrophic.*

*Our concern is highest with potential localised flooding in "the basin" area where the Caravan Park sits at the lowest point.*

*Evacuation timelines for this area are more critical than those that would be anticipated with riverine flooding which can be predicted with greater accuracy.*

*The prime determinants in preparing for and carrying out an evacuation of the park include;*

- the condition and general roadworthiness of the caravans,*
- sufficient and adequate vehicles being available to tow them (or transport for the on-site cabins),*
- the location and proximity of the evacuation assembly area and not least,*
- the physical ability and mental acuity of the residents to participate effectively in an evacuation.*

*Our concern is less so in the case of the transient/ tourist caravans which we anticipate would be more roadworthy and the owners more accustomed to moving from the area more efficiently. We cannot trade off our responsibility for public safety against the perceived social good of having longer stay residents in this high risk environment."*

In addition, the matter has been the subject of discussion at the Local Emergency Management Committee (LEMC) and the Floodplain Management Committee (FMC).

The LEMC at its meeting of 19 August 2009 unanimously resolved:

*“That Council be requested to strongly consider relocating the Lismore Tourist Caravan Park due to safety and health concerns for the residents.”*

The FMC has discussed the issue on many occasions over the last 12–18 months. At its meeting of 17 November 2010 the Committee resolved:

*“The Floodplain Management Committee reaffirm that the Lismore Tourist Caravan Park in Dawson Street should be closed for permanent sites or these sites be relocated on the expiry of the current lease.”*

Council is also continuing its process of consultation and facilitation of the relevant housing agencies to provide assistance to residents of the park should they have to relocate. The current process has at least brought the lack of housing in Lismore under further scrutiny from those agencies, whereas in the past, some had actually been referring clients to the caravan park as a housing option.

## Future Options

The current lessee has confirmed in writing that they will leave the facility at the end of the current lease. At that time they intend to remove and sell the infrastructure that they own at the park. This is effectively all of the onsite caravans and cabins, with only three current residents of the park having their own caravans. The current lessee would be prepared to sell this infrastructure to a new lessee.

At the workshop on 15 February 2011 a number of options were presented for Council’s consideration once the current lessee vacates the premises in December 2011. These options are:

| Option                                 | Issues  | Recommendation if supported  |
|--|---|--|
| 1. Closure                             | <ul style="list-style-type: none"> <li>• Up to 120 people homeless.</li> <li>• Notification period to residents may require extension of lease to meet minimum time periods.</li> <li>• Limited alternative housing options.</li> <li>• Implement “Assistance Protocol for Residential Park Closures”.</li> </ul> | <ul style="list-style-type: none"> <li>• Council may need to employ manager to assist with closure due to workload and requirements of “Assistance Protocol for Residential Park Closures”.</li> </ul> |
| 2. Relocation                          | <ul style="list-style-type: none"> <li>• No suitable site has been found out of flood/ residential area and close to services/facilities.</li> </ul>  | <ul style="list-style-type: none"> <li>• Has been considered by Council and previously ruled out as an option.</li> </ul>  |
| 3. Purchase a caravan park in the area | <ul style="list-style-type: none"> <li>• 2 parks are currently available for purchase.</li> </ul>   | <ul style="list-style-type: none"> <li>• Would require further investigation to assess viability, funding options etc.</li> </ul>  |
| 4. Council manage park                 | <ul style="list-style-type: none"> <li>• Still need to decide on 28 day stay enforcement and purchase of vans.</li> <li>• Costs need investigation – will be significant.</li> <li>• Risks to residents from floods remain.</li> </ul>  | <ul style="list-style-type: none"> <li>• Assess existing caravans to determine whether to purchase.</li> <li>• Upgrade of facilities.</li> <li>• Review evacuation plan.</li> </ul>                    |

| Option   | Issues   | Recommendation if supported  |
|--|--|--|
| 5. New lessee - 28 day stay enforced, lessee to purchase and retain caravans or provide alternatives     | <ul style="list-style-type: none"> <li>• Financial viability as a tourist park only. May be difficult to attract new lessee.</li> <li>• Monitoring 28 day compliance.</li> <li>• Existing vans are in very poor condition.</li> <li>• People may still use the park on a permanent basis.</li> <li>• Risks to residents from floods remain.</li> </ul> | <ul style="list-style-type: none"> <li>• Assess existing caravans to determine whether suitable to purchase.</li> <li>• Review lease and management plan to ensure adequate oversight of 28 day limit by LCC.</li> <li>• Upgrade facilities.</li> <li>• Review evacuation plan.</li> </ul> |
| 6. New lessee - 28 day stay enforced for new arrivals. <b>Amnesty</b> for current residents              | <ul style="list-style-type: none"> <li>• Financial viability as a tourist park only. May be difficult to attract new lessee.</li> <li>• Monitoring 28 day compliance.</li> <li>• Existing vans are in very poor condition.</li> <li>• Sunset clause on amnesty.</li> <li>• Risks to residents from floods remain.</li> </ul>                           | <ul style="list-style-type: none"> <li>• Assess existing caravans to determine whether suitable to purchase.</li> <li>• Review lease and management plan to ensure adequate oversight of 28 day limit by LCC.</li> <li>• Upgrade facilities.</li> <li>• Review evacuation plan.</li> </ul> |
| 7. New lessee - Enforce 28 day stay and <b>remove vans</b> i.e. all tenants/ patrons bring their own van | <ul style="list-style-type: none"> <li>• Financial viability as a tourist park only. May be difficult to attract new lessee.</li> <li>• People with no housing option may sleep in tents long term.</li> <li>• Risks to residents from floods remain.</li> </ul>   | <ul style="list-style-type: none"> <li>• Review lease and management plan to ensure adequate oversight of 28 day limit by LCC.</li> <li>• Upgrade facilities.</li> <li>• Review evacuation plan.</li> </ul>  |

At the workshop on 15 February 2011, there was majority support for Option 6 – secure a new lessee with the short term stay provision to be enforced for new tenants and an amnesty for existing longer term tenants.

As such, if the intention is to keep the caravan park open, Council will need to conduct an expression of interest (EOI) or tender process in an attempt to secure a new lessee. In the event that Council could not secure a new lessee, the caravan park would either cease to operate, or Council could choose to manage the facility itself. One Councillor preferred the self management option at the workshop on 15 February 2011.

In conducting an EOI process, it is considered vital that Council addresses the ongoing issue of long term tenants staying in a caravan park that is not approved for long stay tenants. This can be achieved by placing clear requirements into the documentation for the tender that no long stay tenants are permitted. The lessee would also be required to have appropriate processes in place to ensure that patrons of the park did not stay longer than that allowed under the terms of the lease.

A moratorium for existing long term residents is at face value a reasonable approach to the problem. There may be some issues associated with this approach in regard to how such an arrangement could be formalised legally, especially in regard to the provisions of the *Residential Parks Act*, and the views of Council's insurer given their current advice to Council.

## Condition of the Facility

At the workshop on 15 February 2011, several Councillors expressed a desire to improve the overall condition of the facility. This included the general appearance and presentation of the park, condition of caravans owned by the lessee and the general standard of management.

Requirements to this effect can be included in the documentation for the expressions of interest. Staff are investigating mechanisms to objectively state the required standard of facility and assess progress and compliance with such requirements. It is considered that the star rating system employed by AAA Tourism is an appropriate external benchmarking system that could be employed to meet this requirement. The achievement of a minimum 2-2.5 star rating within two years of signing a lease is considered a reasonable and achievable target. Staff will also consider specifying a maximum age for any onsite van or cabin to assist in improving the standard of the facility. Provisions would also need to be included in the lease for a regular review of the facility and management arrangements by Council staff.

## Evacuation Procedures

If the park is to remain open, a review of the evacuation procedures is recommended. The current plan, whilst perhaps adequate, has a number of factors which need to be reviewed in light of recent events at the park. In particular, the triggers for an evacuation need to be reviewed and perhaps a more conservative approach taken.

One particular matter that needs to be re-assessed is where the vans are relocated to and what happens to the residents once vans have been moved. The current plan permits vans to be moved to the public carpark outside the PCYC and Trinity Catholic College as a staging area. This caused some issues during the evacuation over the Christmas period.

Under emergency management arrangements, if an evacuation is called during a flood by the SES (as the combat agency for floods), the residents are able to be accommodated in an evacuation centre at the cost of the Department of Community Services (DOCS). Southern Cross University is the approved evacuation centre under the Lismore Disaster Plan (Displan). If an evacuation is called voluntarily, by say the manager/lessee of the park (as was the case over the Christmas period), there is no guarantee that the financial cost of accommodating the residents would be met by DOCS.

One way to eliminate this issue is for the evacuation plan to become a sub-plan of the Lismore Disaster Plan (Displan). It will therefore be necessary to ensure that those external agencies involved in emergency management are consulted on the review of the evacuation plan to ensure that adequate services are available to evacuees when an evacuation is called, and the circumstances in which funding will be provided are made very clear and agreed.

An application has been made for funding under the Natural Disaster Mitigation program to undertake a comprehensive review of the evacuation plan including technical analysis of the appropriate trigger points to call an evacuation of the caravan park.

## Sustainability Assessment

### Sustainable Economic Growth and Development

The caravan park provides a place for short term stays close to the CBD. Undoubtedly patrons of the park make a contribution to the economic growth and development of Lismore through the money that they spend on goods and services in Lismore.

## Social Inclusion and Participation

A full Social Impact Assessment (SIA) has been completed according to Council's decision at the meeting of 11 May 2010 inter alia that: *"Council conduct a social impact assessment of the [potential] closure and work with appropriate agencies to relocate the residents."*

A copy of the full SIA report is attached. In summary:

- There are up to 150 people who could potentially be rendered homeless by closure of the caravan park. Currently, around 90 people, including children, have been living there for over 28 days.
- These are among the most vulnerable people in Lismore – 2/3rds have a disability, many were previously homeless, 90% receive some form of Centrelink payment, there are currently six (6) children living there. Many of these residents would not be able to sustain a tenancy without support.
- There is inadequate private and social housing stock in Lismore to accommodate this number in a short time frame. There are options for residents to go out of area to attain social housing tenancies.
- Council's Social Planner has been working with local housing organisations to deliver an integrated response to the housing and support needs of this group. A barbecue was held at the caravan park in December 2010 to provide information and tenancy advice and advocacy. 86% of respondents to a survey taken on that day indicated they wanted secure housing.
- Council's Social Planner has organised a Housing and Support Services Expo at the caravan park for 22 March 2011. Housing and support services in Lismore will provide information, advice and assistance to residents to attain private tenancies or social housing. A barbecue will be provided.
- At a Council Workshop on 15 February 2011, seven (7) options were discussed for the future of the caravan park. Council's Social Planner supports the following option: New lessee. Enforce 28 day stay for new arrivals. Amnesty for current residents (with a 12 month sunset clause). In addition to this:
  - Assess existing caravans for safety and health risk
  - Review evacuation plan including structural measures to increase evacuation time
  - Upgrade facilities.

The social impact and financial cost of the significant risk of residents being regularly flooded, forced to evacuate and relocate and the subsequent loss of property and possessions, or even life, needs to also be factored into Council's decision.

## Protect, Conserve and Enhance the Environment and Biodiversity

The proposed physical measures designed to increase evacuation time for residents would each have some effects on the environment and biodiversity. Should Council choose to further explore any or all of these options, those effects would be considered in more detail at that time.

## Best-Practice Corporate Governance

The location of the caravan park is far from satisfactory. It is effectively the lowest part of the CBD and is regularly inundated by floodwaters. Having people stay in the park puts them at risk during flood events. From a risk management perspective the ideal outcome would be to close the caravan park and remove the risk.

The Local Emergency Management Committee and the Floodplain Management Committee have both outlined their support for the caravan park to cease operating for long term residents in its current location.

Having regard to the findings of the Social Impact Assessment, and Council's apparent desire to maintain some form of short term accommodation option at the facility, a review of the evacuation procedures will ensure reduced risks for patrons of the facility. A more conservative approach than has been taken in the past will assist in this regard.

## Comments

### Finance

The 2010/11 Operational Plan includes a contribution from Council of \$20,000 for the investigation of options to manage the flooding and heavy rainfall issue at the Lismore Tourist Caravan Park. Approximately \$8,300 has been spent on engineering reports to date.

To proceed with additional modelling, estimated to cost a minimum of \$25,000, additional funding will need to be allocated from the 2010/11 Budget. This is not supported.

With regards to the option supported at the 15 February 2011 Workshop (secure a new lessee, short term stay provisions to be enforced and an amnesty for existing long term tenants), the income Council receives (\$42,500 in 2010/11) is likely to be unfavourably impacted in future years and Council may have to purchase caravans to accommodate existing tenants.

### Other staff comments

Council's Social Planner has undertaken the social impact assessment of a potential closure of the park and prepared the comments under social inclusion and participation in the sustainability section of this report.

### Public consultation

Consultation with the affected patrons of the caravan park has been undertaken as part of the social impact assessment. Input has also been sought from external agencies through the SES, Local Emergency Management Committee and Floodplain Management Committee.

## Conclusion

The situation at the Lismore Tourist Caravan Park is problematic. The pending expiry of the current lease in December 2011 has brought these long-standing issues to a head and Council must now make a decision on the future direction for the caravan park.

There are clearly significant social impacts that would arise from any closure of the park or enforcement of the short stay provisions of the current lease. However, those short stay provisions exist to minimise the risks to patrons during a flood and to facilitate an orderly evacuation when required. There are also social impacts associated with having long stay tenants in the park in that there is an increased risk of property loss and potentially loss of life during a flood event.

It is not possible under Council's current LEP to have the caravan park approved for long stay tenants. Further, Council has received compelling advice from its insurer in regard to its obligations to ensure that the caravan park is operated in accordance with its approved use and the terms of the lease. If Council's desire is to have the caravan park remain open, there is no choice but to enforce the short stay requirements.

In view of the direction received from Council at the workshop on 15 February 2011 and the apparent desire to improve the overall standard of the caravan park, it is considered that the next step in this process should be to conduct an expression of interest process in an attempt to secure a new lessee for the facility. The terms of any new lease will include a requirement that all tenants be permitted for short stays only, and provisions for the facility to be upgraded at the lessee's cost.

The suggestion of a moratorium for existing longer term residents is considered worthy of further investigation. Matters that need to be addressed include the opinion of Council's insurer, what effect such a decision might have on the legal responsibilities of the current lessee to his tenants and how such a moratorium would be managed in regard to a transition to a new lessee. Staff can investigate these matters and report back to Council with the outcome of the expression of interest process.

If the facility is to remain open, the evacuation plan needs to be reviewed and in particular a more conservative approach taken to evacuations with appropriate triggers developed. A grant application has already been lodged to undertake this review.

Council also needs to work with the existing lessee to ensure that they meet their responsibilities to the current residents, to Council and to facilitate a smooth transition to a new lessee should one be secured.

Council's process of working with the external housing agencies to assist in relocating residents where required also needs to continue.

## Attachment/s

1. Report for Lismore Tourist Caravan Park November 2010 GHD (Over 7 pages)
2. Letter confidential legal advice Lismore Tourist Caravan Park Walters Solicitors - *This matter is considered to be confidential under Section 10A(2) (g) of the Local Government Act, as it deals with advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege* (Over 7 pages)
3. Draft Advice from Council's Insurer Lismore Tourist Caravan Park Professional Indemnity Exposure - *This matter is considered to be confidential under Section 10A(2) (g) of the Local Government Act, as it deals with advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege* (Over 7 pages)
4. Social Impact Assessment - Potential Closure of Lismore Tourist Caravan Park (Over 7 pages)

## Recommendation

That:

1. Council note the contents of the report from GHD and take no further action to explore the recommended options.
2. Council conduct an expression of interest (EOI) process as soon as possible in an attempt to secure a new lessee for the facility.
3. The EOI documentation include requirements for an improvement in the overall standard of the facilities and management of the park to be undertaken by the lessee as outlined in the report.
4. The EOI documentation include requirements that all new residents at the park must be short stay tenants only.
5. The evacuation plan for the caravan park be reviewed, noting that an application has been lodged for funding of this review.
6. Staff investigate further the issues outlined in the report regarding a potential moratorium for existing residents of the park in regard to enforcement of the short stay provisions.
7. A further report be presented to Council following completion of the EOI process and completion of the investigation outlined in Point 6.
8. Council work with the current lessee to ensure that their obligations to the existing residents are understood and met in regards to their departure from the facility in December 2011.
9. Council continue to work with the relevant housing agencies to assist in relocating residents where and if required.

# Report

|                                      |  |
|--------------------------------------|--|
| <b>Subject</b>                       | <b>Infrastructure Services Review</b>  |
| <b>TRIM Record No</b>                | BP11/100:QT11/4  |
| <b>Prepared by</b>                   | Executive Director - Infrastructure Services   |
| <b>Reason</b>                        | Council to consider the content and recommendations in the final report on the Infrastructure Services Review. |
| <b>Community Strategic Plan Link</b> | Efficient Use of Council Resources   |

## Overview of Report

This report presents the findings by the independent consultants (Complete Urban) who have undertaken a review of the Infrastructure Services Directorate. They have commented on the efficiency and effectiveness of several operations, observed work practices, looked at resource levels for plant and staff, commented on outsourcing and conformance with legislative requirements and responded to issues of concern raised by the public.

Their findings in summary state *“Council is achieving value for money from the Infrastructure Services team however there are always areas for improvement in any organisation.”* This report recommends Council adopt all 67 recommendations included in the review and that staff develop an action plan for the implementation of these recommendations.

## Background

Council resolved at the ordinary meeting of 10 November 2009 *“.....that a report be prepared on the most effective manner in which to carry out a review of Council’s Infrastructure Services section. The review will examine value for money and environmental issues concentrating on, but not be limited to:*

- a. the maintenance workshop and fleet;*
- b. the appropriateness of Council’s plant and equipment for the work required;*
- c. work practices;*
- d. the role of outsourcing; and*
- e. the techniques and technology applied to road construction and maintenance.”*

This issue first arose during the budget review process held in 2009 where Council examined every line item in the budget to ensure Council funds were allocated in the most effective manner. The Infrastructure Services Directorate is responsible for the expenditure of the vast majority of Council’s budget. Given our tight financial environment it was logical for Council to ask whether these funds are being spent in an efficient and effective manner.

Council considered a report at the ordinary meeting of 9 February 2010 which recommended the review of Infrastructure Services should be undertaken by an independent consultant, be undertaken for a fixed sum of \$50,000 and Council should supply Key Performance data to reduce the amount of data collection and help make the consultant’s time as productive as possible.

During Council's Special Rate Variation consultation sessions held during March 2010 a great deal of feedback was received from the community questioning Council's ability to provide efficient and effective road services. This reinforced the need for a review of Council's road maintenance and construction practices.

A workshop was held with Councillors on 25 May 2010 to explain the Scope of Works and Consultant's Brief. This was to ensure the instructions to the consultant were in accordance with Council's expectations.

A Notice of Motion was considered at Council's ordinary meeting of 8 June 2010. It was agreed two Councillors would sit on the panel to select the consultant, the Infrastructure Assets Policy Advisory Group (IAPAG) would act as a steering committee and we would call for public submissions into the review.

Quotations were advertised and received by 29 July 2010 for competent independent consultants to undertake the review. Eleven (11) submissions were received. The assessment panel met on 10 and 12 August 2010 and a successful consultant was recommended – COMPLETE Urban.

Bill Woodcock, Kevin Hough and Melissa Gibbs from Complete Urban attended a joint Councillor Workshop and IAPAG meeting on 20 September 2010. The consultants outlined their approach to the project and received feedback from the meeting.

Bill Woodcock and Kevin Hough undertook field work and staff interviews between 1-4 November 2010. They visited worksites including road construction and maintenance projects, Parks operations, Water and Wastewater operations, Brunswick Street Workshop, Blakebrook Quarry and office activities. Work practices were observed and discussions held with management, supervisory and operational staff.

The findings of a preliminary report were discussed at a joint Councillor Workshop and IAPAG meeting on 7 December 2010. The findings were also discussed with staff.

The Final Report has now been received and is enclosed with Councillors' business papers.

## Scope of the Review

The consultants were asked to review the following operations of Council:

- Roads
- Fleet and Workshop
- Quarry and Asphalt
- Parks
- Water and Wastewater.

The consultants were asked to provide comment on:

- The efficiency (cost per unit of output) and effectiveness (value for money), of the above Council operations.
- Observations of Council practice compared to industry benchmark information, coupled with personal experience, and taking into account such factors as budget levels, asset condition, environmental and geographical factors.
- Work practices and techniques; comment in relation to industry best practice and appropriateness for local conditions.
- Resourcing - including staff, plant and equipment; comment on staffing levels and structure also the type and quantity of plant and equipment and appropriateness to undertake the various operations.

- Outsourcing – review the current practices and make recommendations for improvement.
- Conformance of activities with environmental legislation.
- Issues raised by the general public in submissions to the review or during the Special Rate Variation consultation process.

## Consultants' Findings

In the conclusion of the consultants' report it states "In summary Council is achieving value for money from the Infrastructure Services team however there are always areas for improvement in any organisation." The report includes 67 recommendations for improvement.

The report also states; "The discussion and analysis presented in this report indicates that there are insufficient funds allocated to the renewal and maintenance of the road network".

The consultants' report is quite comprehensive and it is not proposed to discuss all 67 recommendations in detail. It is proposed to develop an action plan to deliver the recommendations and bring that back to Council in the future. The main findings of the report are discussed below.

### General

- Lismore City Council is doing some great things and this needs to be more effectively communicated to the community. The difficulties of building roads on Lismore's pug clays should be better explained to the community.
- There are a number of vacancies and older employees about to retire; therefore Council needs to develop a strategic workforce plan.
- The consultants recommend minimising the use of the Jetpatcher in the CBD and investigate wider use of cold mill and pave techniques for pothole patching. They also recommended the type of automated pothole repair truck which has more control and less overspray of material.

### Practices and Benchmarking

- The Infrastructure Services Directorate is not over staffed; in fact with current vacancies it is under resourced. At full compliment, numbers are considered satisfactory.
- Council should invest in a Pavement Management System and investigate expanding the geotechnical laboratory at the quarry to include road design and testing.
- It is recommended Council introduce a Fleet Coordination Team to enhance management of Council's fleet.

### Effectiveness and Efficiency

- There are staff shortages in the Asset Management Section which are affecting Council's performance (several of these positions have been filled since the consultants' visit).
- Council needs to deliver designs to field staff earlier and input from stakeholders should be obtained at 50%, 80% and 100% of the design development process.
- The asphalt plant is running inefficiently due to its age and Council should note the outcome of the separate financial plan currently being undertaken.

## Resourcing and Staffing Levels

- Some rationalisation of plant resources is needed as some plant is being hired continuously. Equally some hired staff are also being used on a continuous basis. Training of existing staff and employment of staff from other industries should be investigated.
- It is also recommended that additional engineering support be added to both the Works and Assets Sections.

## Outsourcing

- It is not recommended to outsource additional services. The use of outsourced plant and labour is not too extensive; however, a few areas mentioned above should be examined further.
- Council should examine the possibility of outsourcing seasonal peaks in areas such as grass cutting.

## Legislative Performance

- Improvements can be made in Council's safety management and auditing of project specific Environmental Management Plans.
- Delays in Asset Management planning may impact Council's compliance with the new Integrated Planning and Reporting obligations.

## Sustainability Assessment

### Sustainable Economic Growth and Development

The review will help to ensure Council funds are being spent in an efficient and effective manner increasing the sustainability of Council assets.

### Social Inclusion and Participation

The review has included feedback from the Special Rate Variation consultation process. Submissions have been invited from the public and the Infrastructure Assets PAG has participated in the review.

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

Part of the review includes checking Council's conformance with environmental legislation when undertaking activities.

### Best-Practice Corporate Governance

The review will improve the efficient use of Council's resources and use best practice to benchmark Council's operational services.

## Comments

### Finance

The adoption of the Consultant's 67 recommendations and the development of an action plan are supported.

Part of the development of an action plan should include an assessment of the financial impact on future budgets. If additional funding is required to implement, this needs to be identified at this time.

## Other staff comments

Not required

## Public consultation

Council has advertised for a three week period for the public to make written input into the Infrastructure Services Review. Also, submissions from the Special Rate Variation round of consultation was considered by the consultants.

The Infrastructure and Assets Policy Advisory Group (IAPAG) has been involved with the review since August 2010. The final report of the Infrastructure Services Review was considered by the IAPAG at its meeting on 17 February 2011. There was concern expressed by the PAG that sufficient time had not been provided to fully review the report as there were delays in delivery of the agenda. Also some members expressed concern that the report was poorly written, repetitive in parts, too much jargon, too wordy and the recommendations don't stand on their own without reference back to the commentary. There was also an expectation the benchmarking would be more definitive.

The above comments are appreciated, however the criticism is more about reporting style. The recommendations and findings from the consultants are sound. It was explained to the PAG that this report provides a good foundation to develop an action plan for the implementation of the recommendations. The PAG will be involved with the ongoing monitoring of the action plan in the future.

With regard to definitive benchmarking data, it is unfortunate that this information is not available throughout the industry, however the data that is available is often specific to one council or organisation and cannot be easily compared. This issue has been experienced with previous studies. This report has relied on the knowledge and experience of the consultants to provide comment and judgement on Council's performance.

It is proposed to undertake further consultation with the community following the adoption of this report.

## Conclusion

Following an open and transparent process the final report into the Review of Infrastructure Services is presented to Council.

In the conclusion of the consultants' report it states "In summary Council is achieving value for money from the Infrastructure Services team however there are always areas for improvement in any organisation." The report includes 67 recommendations for improvement.

The report is an overview and provides a sound basis for ongoing improvement in the Infrastructure Services Directorate. It is proposed staff develop a detailed action plan to flesh out exactly how the recommendations will be implemented.

## Attachment/s

1. Infrastructure Services Review Final Report by Complete Urban dated 27 January 2011 (Over 7 pages)

## Recommendation

That:

1. The final report from Complete Urban on the Infrastructure Services Review be received and noted.
2. All 67 recommendations as presented in the review be adopted.
3. Staff develop an action plan for the implementation of the above recommendations and report back to Council.

# Report

|                                      |  |
|--------------------------------------|--|
| <b>Subject</b>                       | <b>Proposed 2011/2012 Roads Capital Works Program</b>  |
| <b>TRIM Record No</b>                | BP11/82:EF09/1438  |
| <b>Prepared by</b>                   | Manager - Works  |
| <b>Reason</b>                        | To inform Council of the proposed roads capital works program for 2011/2012 as recommended by the Infrastructure Assets Policy Advisory Group (IAPAG). |
| <b>Community Strategic Plan Link</b> | Improve Roads, Cycleways and Footpaths   |

## Overview of Report

This report provides a recommended Roads Capital Works Program for the 2011/2012 financial year. The recommended program has been developed using Council's objective road reconstruction point scoring system.

## Background

The Infrastructure Assets PAG met on 17 February 2011 to consider projects to be recommended for inclusion in the 2011/2012 Roads Capital Works Program.

Council's current policy for the distribution of funds between the urban and rural road network is on a needs basis through the points scoring system with a cap of 2/3<sup>rds</sup> placed on the proportion of the total funding that can be used in either the rural or urban area.

## Road Funding Available

| General Road Funding                    | 2011 / 2012 (\$)   |
|---|--------------------|
| Revenue - General                       | \$1,771,800        |
| Roads Federal Assistance Grants Program | 941,500            |
| Roads to Recovery Program               | 913,500            |
| <b>Total:</b>                           | <b>\$3,626,800</b> |

Please note there are many other line items in the Roads Section of the draft budget. However, they apply to infrastructure other than roads, such as drainage, footpaths, cycleways, bridges, etc.

## Urban / Rural Allocation

In accordance with the Infrastructure Assets PAG recommendation, funds were distributed on a network needs basis through the objective points system. Based on this, a 50:50 funding split between Urban and Rural was adopted which was the best fit based on the comparative points system and project cost estimates to match the available roads funding.

The Infrastructure Assets PAG adopted this funding split for the 2011/2012 financial year, after the deduction of \$200,000 for the sealing of gravel roads (which for this year has been allocated to heavy patching of rural sealed roads) and \$50,000 for safety related repair/ improvement works.

| Road Type                           | 2011 / 2012 (\$)   | Proportion |
|-------------------------------------|--------------------|------------|
| Urban Sealed Roads                  | 1,688,400          | 50%        |
| Rural Sealed Roads                  | 1,688,400          | 50%        |
|                                     | <b>\$3,376,800</b> |            |
| Heavy Patching – Rural Sealed Roads | 200,000            |            |
| Safety Projects                     | 50,000             |            |
| <b>Total:</b>                       | <b>\$3,626,800</b> |            |

## 10 Year Urban Roads Capital Works Program

| Rating | Road Name                 | Location                          | Cost (\$) | Score |
|--------|---------------------------|-----------------------------------|-----------|-------|
| 1      | Mountain View Drive       | Bruxner Crescent to Trinity Drive | 280,000   | 60    |
| 2      | Rous Road Roundabout      | Oliver Avenue intersection        | 220,000   | 56    |
| 3      | Esmonde Street            | Wyrallah Road to First Avenue     | 270,000   | 56    |
| 4      | Jubilee Street            | Diadem Street to Hunter Street    | 350,000   | 56    |
| 5      | Conway Street - Stage 3   | Keen Street to Molesworth Street  | 568,400   | 56    |
| 6      | Phyllis Street            | Wilson Street to Crown Street     | 420,000   | 55    |
| 7      | Diadem Street - Stage 1   | Uralba Street to Gaggin Lane      | 420,000   | 55    |
| 8      | Molesworth Street         | Magellan Street to Conway Street  | 550,000   | 54    |
| 9      | Centre Street             | Casino Street to Charles Street   | 440,000   | 54    |
| 10     | Avondale Avenue - Stage 2 | Second Avenue to First Avenue     | 450,000   | 54    |
| 11     | New Ballina Road          | Hunter Street to O'Flynn Street   | 500,000   | 53    |
| 12     | Zadoc Street              | Molesworth Street to Keen Street  | 440,000   | 51    |
| 13     | Gaggin Lane               | Brewster Street - Diadem Street   | 220,000   | 49    |
| 14     | Cooling Street            | High Street to Mackay Street      | 280,000   | 48    |
| 15     | Kareela Avenue            | Valley View Drive to Donnans Road | 200,000   | 48    |
| 16     | Diadem Street - Stage 2   | Gaggin Lane to Leycester Street   | 330,000   | 48    |
| 17     | Bounty Street             | Molesworth Street to End          | 330,000   | 47    |
| 18     | Dawson Street             | Ballina Road to Parkes Street     | 340,000   | 47    |
| 19     | Ostrom Street             | From Casino Street                | 510,000   | 47    |
| 20     | Newbridge Street          | Union Street to Wilson Street     | 200,000   | 47    |
| 21     | Esmonde Street            | Wyrallah Road to Stocks Street    | 250,000   | 46    |
| 22     | O'Flynn Street - Stage 1  | New Ballina Road to High Street   | 440,000   | 44    |
| 23     | O'Flynn Street - Stage 2  | New Ballina Road to High Street   | 700,000   | 44    |
| 24     | Ubrihien Street           | Dibbs Street to Shelley Avenue    | 520,000   | 44    |
| 25     | Walker Street             | College Street to Military Road   | 580,000   | 44    |
| 26     | McKenzie Street– Stage 1  | Crescent Street to Dibbs Street   | 270,000   | 43    |
| 27     | McKenzie Street – Stage 2 | Diadem Street to Hunter Street    | 390,000   | 43    |
| 28     | Aurora Street             | Dibbs Street to Nielson Street    | 620,000   | 42    |
| 29     | Esmonde Street            | Elton Street to Wyrallah Road     | 380,000   | 42    |

| Rating        | Road Name         | Location                         | Cost (\$)           | Score |
|---------------|-------------------|----------------------------------|---------------------|-------|
| 30            | Webster Street    | Wilson Street to Crown Street    | 440,000             | 42    |
| 31            | Brewster Street   | Drain to Ballina Road            | 495,000             | 41    |
| 32            | Molesworth Street | Ballina Road to Junction Street  | 450,000             | 41    |
| 33            | Cathcart Street   | Conway Street to Magellan Street | 305,000             | 41    |
| 34            | Charles Street    | Wilson Street to Crown Street    | 435,000             | 40    |
| <b>Total:</b> |                   |                                  | <b>\$13,593,400</b> |       |

## 10 Year Rural Roads Capital Works Program

| Priority Rating | Road Name                   | Location                                    | Cost (\$) | Score |
|-----------------|-----------------------------|---|-----------|-------|
| 1               | Rous Road - Stage 2         | Muller Road to Connor Road                  | 500,000   | 78    |
| 2               | Boatharbour Road - Stage 1  | Eltham Road – 0.7km South                   | 390,000   | 64    |
| 3               | Boatharbour Road - Stage 2  | Alexander Lane – 1km Nth                    | 580,000   | 64    |
| 4               | Boatharbour Road - Stage 3  | Cameron Road – 1km Nth                      | 560,000   | 63    |
| 5               | Cawongla Road - Stage 3     | 7.5km to 8.0km Nth Rock Valley Road         | 338,400   | 63    |
| 6               | Cowlong Road - Stage 1      | Ch 0.9km to Ch 1.5km (Daniel Roberts Drive) | 460,000   | 60    |
| 7               | Cowlong Road - Stage 2      | Ch 1.5km to 2.3km (Palmer Road)             | 590,000   | 60    |
| 8               | Dunoon Road                 | Ch 19.8km to 20.3km (Rocky Creek Dam Road)  | 550,000   | 60    |
| 9               | Whian Whian Road - Stage 2  | MR306 to Bridge                             | 480,000   | 60    |
| 10              | Whian Whian Road - Stage 3  | Ashlin Road – 0.8km south                   | 420,000   | 59    |
| 11              | Numulgi Road - Stage 2      | 2.1 to 3.1km north of Woodlawn Road         | 520,000   | 59    |
| 12              | Numulgi Road - Stage 3      | 3.5 to 4.0km north of Woodlawn Road         | 360,000   | 59    |
| 13              | Tucki Road - Stage 1        | 2.5 to 3.4km north of Wyrallah Road         | 504,000   | 58    |
| 14              | Tucki Road - Stage 2        | 3.4 to 4.4km north Wyrallah Road            | 560,000   | 58    |
| 15              | Tucki Road - Stage 3        | 4.4 to 5.4km north Wyrallah Road            | 560,000   | 58    |
| 16              | James Gibson Road - Stage 1 | 4.5 - 5.1 km east Corndale Road             | 450,000   | 57    |
| 17              | James Gibson Road - Stage 2 | 3.3 - 4.5 km east Corndale Road             | 770,000   | 56    |
| 18              | Cowlong Road - Stage 3      | Lavis Road to McKenzie Road                 | 480,000   | 56    |
| 19              | Boatharbour Road - Stage 4  | 6.0 to 7.0km Nth Bangalow Road              | 560,000   | 55    |
| 20              | Tregeagle Road - Stage 1    | Ch 0.7km to 1.7km south Rous Road           | 400,000   | 55    |
| 21              | Tregeagle Road - Stage 2    | Ch 2.1km to 2.7km south Rous Road           | 650,000   | 55    |
| 22              | Cawongla Road - Stage 4     | 10.8 to 11.7km Nth Rock Valley Road         | 450,000   | 52    |
| 23              | Cawongla Road - Stage 5     | 12.2 - 12.8 km Nth Rock Valley Road         | 390,000   | 52    |
| 24              | Boatharbour Road - Stage 5  | 5.3 to 6.0km Nth Bangalow Road              | 390,000   | 52    |
| 25              | Cawongla Road - Stage 6     | 9.5 - 10.4 km Nth Rock Valley Road          | 385,000   | 48    |
| 26              | Cawongla Road - Stage 7     | 13.4 - 13.8 km Nth Rock Valley Road         | 260,000   | 48    |
| 27              | Cawongla Road - Stage 8     | 13.8 - 15.2 km Nth Rock Valley Road         | 900,000   | 48    |
| 28              | Woodlawn Road               | 2nd railway bridge to Savins Road           | 450,000   | 48    |
| 29              | Crofton Road                | 0.1 - 0.5 km north of Nimbin Road           | 300,000   | 47    |
| 30              | Pinchin Road - Stage 3      | 3.7 - 4.7km east Nimbin Road                | 490,000   | 47    |

| Priority Rating | Road Name     | Location                       | Cost (\$)           | Score |
|-----------------|---------------|--------------------------------|---------------------|-------|
| 31              | Tatham Road   | Bruxner Highway - 2.3 km south | 970,000             | 47    |
| 32              | Pearson Road  | McKenzie Road - Eltham Road    | 650,000             | 47    |
| 33              | Keerrong Road | Various Sections               | 600,000             | 47    |
| 34              | Kilgin Road   | Various Sections               | 500,000             | 47    |
| 35              | Rosehill Road | Rock Valley Road Intersection  | 300,000             | 47    |
| <b>Total:</b>   |               |                                | <b>\$17,717,400</b> |       |

## Bitumen Sealing of Gravel Roads

The Infrastructure Assets PAG (IAPAG) has recommended that the traditional allocation of the \$200,000 for the bitumen sealing of gravel roads be allocated towards a heavy patching program within the rural road network for the 2011/2012 budget. The background behind this decision is due to the recent moderate flood events experienced within the Lismore region during December 2010 and January 2011. This inclement weather has resulted in several road pavements becoming saturated, causing a loss of structural strength and load carrying capacity, leading to severely potholed pavements. Many of these pavement failures are isolated and not of a significant length to enable them to be included in Council's future capital works program for road rehabilitation. In addition, these areas are not eligible for funding under the State Government's natural disaster relief program as the subject roads were not actually inundated with flood waters.

## Proposed 2011/2012 Roads Capital Works Program

| 2011/2012 Works Program<br>(Recommended by Infrastructure Assets PAG) | Pts<br>Score   | (\$)               |
|---|----------------|--------------------|
| <b>Urban Roads</b>  | -              |                    |
| Mountain View Drive (Bruxner Crescent to Trinity Drive)               | 60             | \$ 280,000         |
| Rous Road Roundabout (Oliver Avenue Intersection)                     | 56             | 220,000            |
| Esmonde Street (Wyrallah Road to First Avenue)                        | 56             | 270,000            |
| Jubilee Street (Diadem Street to Hunter Street)                       | 56             | 350,000            |
| Conway Street - Stage 3 (Keen Street to Molesworth Street)            | 56             | 568,400            |
|   |                | <b>\$1,688,400</b> |
| <b>Rural Roads</b>  | -              |                    |
| Rous Road - Stage 2 (Muller Road to Connor Road)                      | 78             | \$ 500,000         |
| Boatharbour Road - Stage 1 (Ch 0 to Ch 0.7km south of Eltham Road)    | 64             | 390,000            |
| Cawongla Road - Stage 3 (Ch 7.5km to 8km north of Rock Valley Road)   | 63             | 338,400            |
| Cowlong Road - Stage 1 (Ch 0.9km to Ch 1.5km)                         | 60             | 460,000            |
| Heavy Patching Program  | -              | 200,000            |
|   |                | <b>\$1,888,400</b> |
| <b>Safety Related Repair/ Improvement Works</b>                       |                |                    |
| Fredericks Road crest removal   | 15             | \$ 50,000          |
|   | <b>Total :</b> | <b>\$3,626,800</b> |

## Sustainability Assessment

### Sustainable Economic Growth and Development

The proposed rehabilitation works will reduce the ongoing maintenance liabilities for these assets. The projects will also have a positive affect on Lismore's transport infrastructure by providing an improved level of service to the community.

### Social Inclusion and Participation

The projects will improve the quality of service provided in the transport infrastructure area.

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

Environmental impacts are addressed through the REF (review of environmental factors) process. Existing pavement materials and poor sub-grades will be modified where possible to reduce the volumes of imported materials.

### Best-Practice Corporate Governance

All projects have been designed and constructed to industry standards to ensure the life of the new asset is realised.

## Comments

### Finance

The draft 2011/12 Operational Plan is likely to have funding of approximately \$3,626,800 available for the Roads Capital Works Program. Any variation, favourable or unfavourable, will be reported to Council as part of the 2011/12 Operational Plan process.

### Other staff comments

Not required.

### Public consultation

The proposed 2011/2012 Roads Capital Works Program has been discussed and is recommended by the Infrastructure Assets PAG which met on 17 February 2011.

## Conclusion

This report has recommended a program of roads capital works to be undertaken during the 2011/2012 financial year that has been evaluated in accordance with Council's road reconstruction point scoring system.

These projects will ensure Council's road infrastructure network remains viable and efficient for the community's benefit.

## Attachment/s

There are no attachments for this report.

## Recommendation

That Council approve the 2011/2012 Roads Capital Works Program as set out in the body of the report.

# Report

|                                      |  |
|--------------------------------------|--|
| <b>Subject</b>                       | <b>Seasonal Closure of the Lismore Memorial Baths</b>  |
| <b>TRIM Record No</b>                | BP11/80:P6768-19   |
| <b>Prepared by</b>                   | Acting Manager Arts, Tourism and Leisure   |
| <b>Reason</b>                        | To advise Council that revenue at the Lismore Memorial Baths is down on budget expectations, the resultant need to bring forward the seasonal closure and to review opening and closing delegations. |
| <b>Community Strategic Plan Link</b> | Efficient Use of Council Resources   |

## Overview of Report

This report outlines that patronage at the Lismore Memorial Baths (LMB) is down due to adverse weather conditions over the summer season which has detrimentally impacted on budget income. This report provides a number of recommendations in order to minimise the adverse impact on the 2010/11 Budget. There is also a recommendation about delegating decision making around the seasonal opening and closing dates of the LMB to the General Manager.

## Background

As part of an ongoing financial monitoring process, Lismore Memorial Baths (LMB) is closely reviewed each month to check actual revenue and expenditure compared with budget projections. The LMB budget is closely monitored at monthly meetings of Finance and Aquatics Management. Unfortunately the weather since the LMB re-opened for the September 2010 season has been inclement, with both wet and cool conditions, dramatically impacting on attendances and subsequent revenue.

Accordingly, staffing numbers have been reduced to counter the lower attendances and a range of other cost saving measures have been introduced. These include savings on chemicals due to a new regime, increased efficiencies in pool maintenance and energy savings achieved through changed practices e.g. filter backwashing in off peak times, only one lifeguard/receptionist on duty in the mornings during squad/lap swimming sessions, minimum staff levels during the day and early closure of the facility during inclement weather when patronage drops to single figures (generally weekends).

## New Initiatives

In should be noted a variety of positive programs have been implemented at the Lismore Memorial Baths, with favourable financial outcomes this year:

- A new swim school, Swimsations, has been developed and features a progressive learn to swim program that is interchangeable across both the LMB and the Goonellabah Sports and Aquatic Centre (GSAC). The response has resulted in a combined 2,300 lessons occurring (across the two facilities) to end of February 2011, an increase of over 790 participants, with revenue for this program up 30% based on last year.
- A new initiative of "pre carnival clinics" has been extremely well patronised. This initiative provides an intensive training program for participants leading up to swimming carnivals. Over 600 attendees have participated in January 2011.
- Deep water aerobics and other new programs and initiatives have been well received.

The following is an overview of the **LMB financial position as at 31 January 2011:**

## Lismore Memorial Baths

**Revenue**

| Actual year to date | Budget year to date | Annual Budget | Variance  |
|---------------------|---------------------|---------------|-----------|
| \$129,000           | \$179,800           | \$279,200     | \$-50,800 |

**Expenditure**

| Actual year to date | Budget year to date | Annual budget | Variance |
|---------------------|---------------------|---------------|----------|
| \$327,500           | \$340,300           | \$578,200     | \$12,800 |

**Current Result: \$-38,000** (less than current budget expectations)

Unseasonal weather patterns have persisted over the summer months, adversely impacting on attendance (weather related) and revenue at the LMB. Despite a range of cost saving measures, forecast for continuing wet and cool conditions is anticipated to not significantly improve casual patronage at the LMB and subsequent revenue.

The increased operating deficit of \$-38,000 for the Lismore Memorial Baths is as at 31 January 2011. The month of February is anticipated to meet current revenue and expenditure budgets, primarily due to large swimming carnivals boosting attendance. It is anticipated that for the combined months of March and April (subject to improved weather conditions) a further deficit of approximately **\$17,000** will arise.

Accordingly, it is anticipated that by the end of April an unbudgeted deficit of **\$55,000** for the Lismore Memorial Baths will arise.

A number of options have been identified to improve on an anticipated unfavourable financial position at the end of the financial year.

**Option 1: Early Closure**

Close the LMB at the end of April 2011, after the school holiday period. This will result in a cost saving of \$30,000, ensuring the LMB minimises the unfavourable financial position. The projected end of year deficit beyond the approved budget in this case would be approximately **\$25,000**.

**Option 2: Normal Closure**

Continue operations at the LMB for the month of May 2011. Operating costs are anticipated to be approximately \$4,000 above budget and revenues \$5,000 less than budget for the month of May. The projected end of year deficit beyond the approved budget in this case would be approximately **\$64,000**.

**Option 3: Limited Hours**

Limited opening hours for the month of May 2011, from 6.00am to 8.00am and 4.00pm to 6.00pm Monday to Friday, Saturday 9.00am to 12.00pm, Sunday – Closed. Operating costs for the limited opening hours are approximately \$16,000 for the month of May as such a saving of \$14,000 is anticipated. The projected end of year deficit beyond the approved budget in this case would be approximately **\$41,000**.

## **Option 4: 25 metre pool open**

Limited opening of the 25 metre pool only for the month of May 2011 (lap swimmers). Operating costs for the 25 meter pool are approximately \$14,000 for the month of May. As such savings of \$16,000 are anticipated. The projected end of year deficit beyond the approved budget in this case would be approximately **\$39,000**.

Of the options above, the preferred recommendation is to close the LMB at the end of April 2011, after the school holiday period, which will result in cost savings to Council's operating budget of approximately \$30,000. This cost saving will offset some of the anticipated shortfalls in revenue due to adverse weather conditions, with an unbudgeted deficit of approximately \$25,000 anticipated.

## **Closure comparisons with other surrounding outdoor pools**

|                                |               |
|--------------------------------|---------------|
| Ballina - close for season     | 26 April 2011 |
| Alstonville - close for season | 15 May 2011   |
| Casino - close for season      | 26 April 2011 |

## **Membership passes**

The recommended closure of the LMB, one month earlier at the end of April 2011 will have the greatest impact on regular pool users, approximately 60 people per day (based on May 2010 attendances). With respect to current membership passes, should the facility close early, the following options would be offered to pass holders:

1. Access to Goonellabah Sports and Aquatic Centre is available for the equivalent period; or
2. The pro-rata value of the membership pass would be refunded; or
3. The expiry date on a membership pass would be extended pro rata for the next swimming season at the LMB.

## **Ongoing Annual opening and closure for Lismore Memorial Baths**

It is recommended that future years opening and closing date of the LMB be linked to the official NSW school holiday i.e. open at the start of the spring break starting at the end of September and closing at the end of the autumn break in April.

It is also recommended that the General Manager be the delegated authority to open earlier or close later if there are favourable weather conditions and there is no adverse budget implications.

## **Sustainability Assessment**

### **Sustainable Economic Growth and Development**

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

### **Social Inclusion and Participation**

No access will be available for the community to the LMB for the month of May 2011. An early closure will particularly have an effect on casual swimmers and regular users (particularly lap swimmers). Access will be available for community at the GSAC and other privately owned under aquatic facilities in Lismore.

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

The recommendation will have a minimal positive effect on the environment, with heating of the pool facility not required for the month of May 2011.

## Best-Practice Corporate Governance

The recommended closure of the LMB at the end of April 2011 will minimise the unfavourable 2010/11 budget result for the Lismore Memorial Baths.

## Comments

### Finance

The 2010/11 Budget for operational costs at the Lismore Memorial Baths originally anticipated a \$299,000 deficit. On a pro rata basis to January 2011, the anticipated deficit has increased by \$38,000 to \$337,000. The deficit is anticipated to increase by a further \$17,000 to \$354,000 by the end of April 2011.

Based on this projection, Council will be required to find an additional \$55,000 from within the overall 2010/11 Budget to fund this deficit. Given that more than 2/3 of the financial year has elapsed, there is very limited capacity and opportunity for savings or additional revenues to be realised to offset an increased deficit.

That being the case, the options to close the Lismore Memorial Baths or limit usage are supported. From a financial perspective and in consideration of the overall 2010/11 Budget deficit, Option 1 to close at the end of April 2011 is preferred as it has most capacity to reduce the described deficit of \$55,000 by approximately \$30,000.

## Other staff comments

Not required.

## Public consultation

At the time of writing this report, key users such as the Swim Club, Water Polo and Learn to Swim groups have been consulted, with all parties ceasing first term arrangements at the middle of April 2011.

## Conclusion

Adverse weather conditions this year have dramatically impacted on attendances and subsequent revenue at the LMB. The current operating budget for the Lismore Memorial Baths is in a pro rata negative position of \$-38,000. In order to minimise an unfavourable end of financial year budget position, it is recommended that the Lismore Memorial Baths close at the end of April 2011, one month earlier than anticipated. An early close will result in a cost saving of approximately \$30,000, offsetting some of the decrease in revenue and thus limiting the full year operating deficit for the Lismore Memorial Baths.

## Attachment/s

There are no attachments for this report.

## Recommendation

That:

1. Council authorise the closure of the Lismore Memorial Baths at the conclusion of the NSW Government Autumn school holidays (26 April 2011).
2. Individual Lismore Memorial Baths membership pass holders be informed and invited to negotiate for a partial pro-rata refund or extension options as compensation for the early closure.
3. Lismore Memorial Baths open on the first day of the NSW Government Spring school holidays in September each year and close at the end of the NSW Government Autumn school holidays in April each year.
4. The General Manager be delegated authority to extend the opening and closing dates as outlined in three above for the Lismore Memorial Baths, if patronage and weather conditions warrant and that such extension can be managed within existing budgets.

# Report

|                                      |   |
|--------------------------------------|---|
| <b>Subject</b>                       | <b>Draft Koala Plan of Management Stakeholder Reference Group</b>   |
| <b>TRIM Record No</b>                | BP11/28:EF10/124  |
| <b>Prepared by</b>                   | Environmental Strategy Officer - Ecologist  |
| <b>Reason</b>                        | For Council to nominate an elected member to the Stakeholder Reference Group and to resolve the membership of the balance of the group. |
| <b>Community Strategic Plan Link</b> | Protect, Conserve and Enhance the Environment and Biodiversity  |

## Overview of Report

This report outlines the consultation process being undertaken as part of Council's review of the South East Lismore Koala Plan including the establishment of a Stakeholder Reference Group. The report makes recommendations for the appointment of members to the Stakeholder Reference Group and seeks Council resolution in respect of the recommended appointees.

## Background

In 2003 Lismore City Council developed the Draft Koala Plan of Management (KPoM) for south-east Lismore. This plan was presented to a former elected Council for endorsement in 2004. However it was not adopted.

In March 2009, the current elected Council resolved to review and implement the previously 'shelved' Draft KPoM 2003. As a result, Lismore City Council will now review this plan in consultation with the community and key stakeholders to develop a new Draft KPoM. The intent of the review is to:

- identify realistic and achievable actions that Council can take to better manage koala habitat, the threats to koalas, koala health and ongoing monitoring
- update and ground-truth the koala habitat mapping originally completed in 2000
- develop a standard process for assessing development and rezoning applications.

A comprehensive community consultation process will be conducted during the development of the plan.

## Project governance

The Project Sponsor (Mr Steve Denize, Manager Integrated Planning) is the staff member responsible for ensuring the project is in line with the Council's strategic direction. The Project Manager (Dr Damian Licari, Environmental Strategy Officer – Ecology) is the staff member who has overall responsibility for the successful planning, execution, monitoring and control of the project (Fig. 1).

Three separate panels are responsible for conducting the work to complete the project (Fig. 1), namely the:

- Scientific Expert Panel will review the management strategies and actions contained in the Draft KPoM 2003
- Policy and Planning Panel will review the policies and planning provisions in the original KPoM
- Consultation Panel is responsible for planning and organising the community consultation process.

As part of the community consultation process, the results of the reviews by both the Scientific Expert Panel and the Policy and Planning Expert Panel will be provided to Council's Sustainable Environment Policy Advisory Group (SEPAG) and the Stakeholder Reference Group (SRG) for comment and feedback. The SRG is a stakeholder group that will be specially convened to provide comment and feedback on the new KPoM as it is being developed.

## Consultation process

The first stage of consultation was a Public Information and Consultation Workshop held on Saturday 19 February 2011 (Fig. 2, Step 1). The purpose of this workshop was to:

- explain the reasons why Lismore City Council is undertaking this project
- inform the community about koala ecology, the threats to the continued survival of koalas and the current state of the koala population in south-east Lismore
- identify the impacts that the reviewed plan may have on different sectors of the community.

A Scientific Expert Panel will review the management strategies and actions contained in the Draft KPoM 2003 and a Policy and Planning Panel will review the policies and planning provisions in the original plan (Fig. 2, Step 2). The results of these two reviews will then be provided to SEPAG and the SRG for comment and feedback (Fig. 2, Step 3).

Feedback from the Public Information and Consultation Workshop, the SRG and SEPAG will be taken into consideration by Council staff to form the development of the Draft KPoM (Fig. 2, Step 4).

Once the draft plan has been completed, it will be presented to the elected Council for an endorsement to exhibit the plan (Fig. 2, Step 5). Following exhibition of the draft plan (Fig. 2, Step 6), a report on the public submissions on the plan will be compiled and the Draft KPoM will be put to the elected Council to resolve to adopt the plan (Fig. 2, Step 7).

It is anticipated that the process to review the Draft KPoM 2003 will follow the seven steps identified in Fig. 2, additional components to the community consultation processes may be added if required.

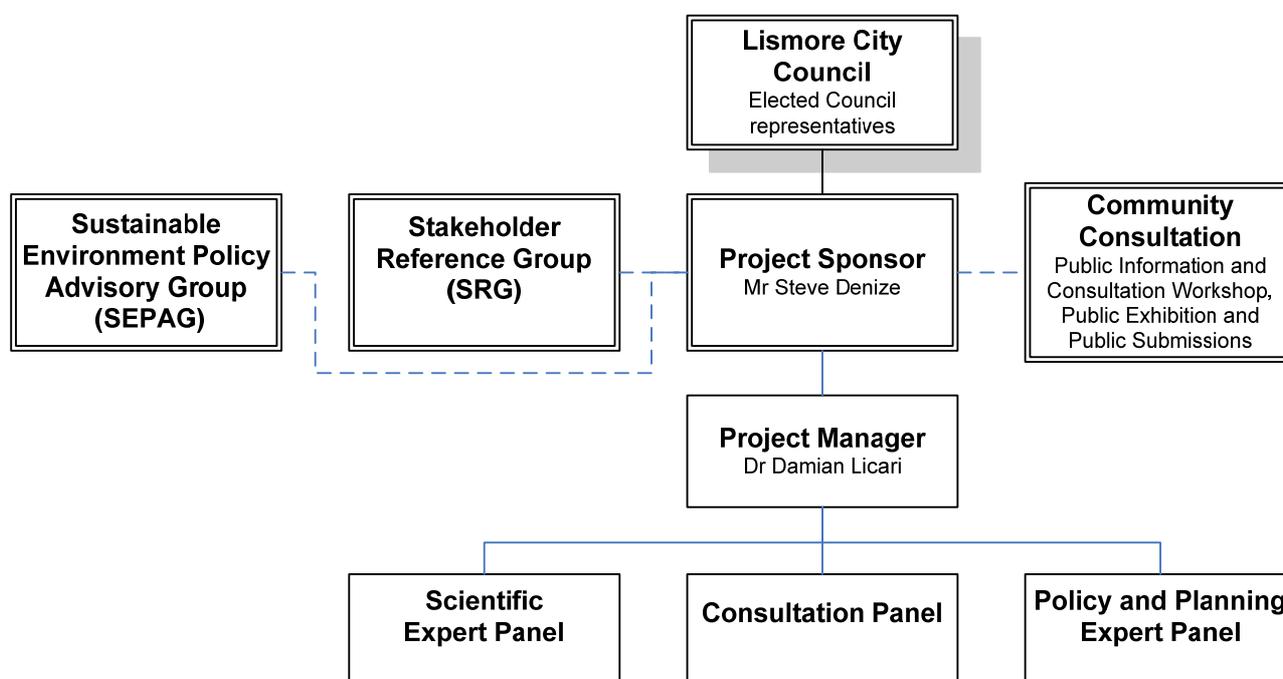


Figure 1 – Project governance structure for the Draft KPoM project

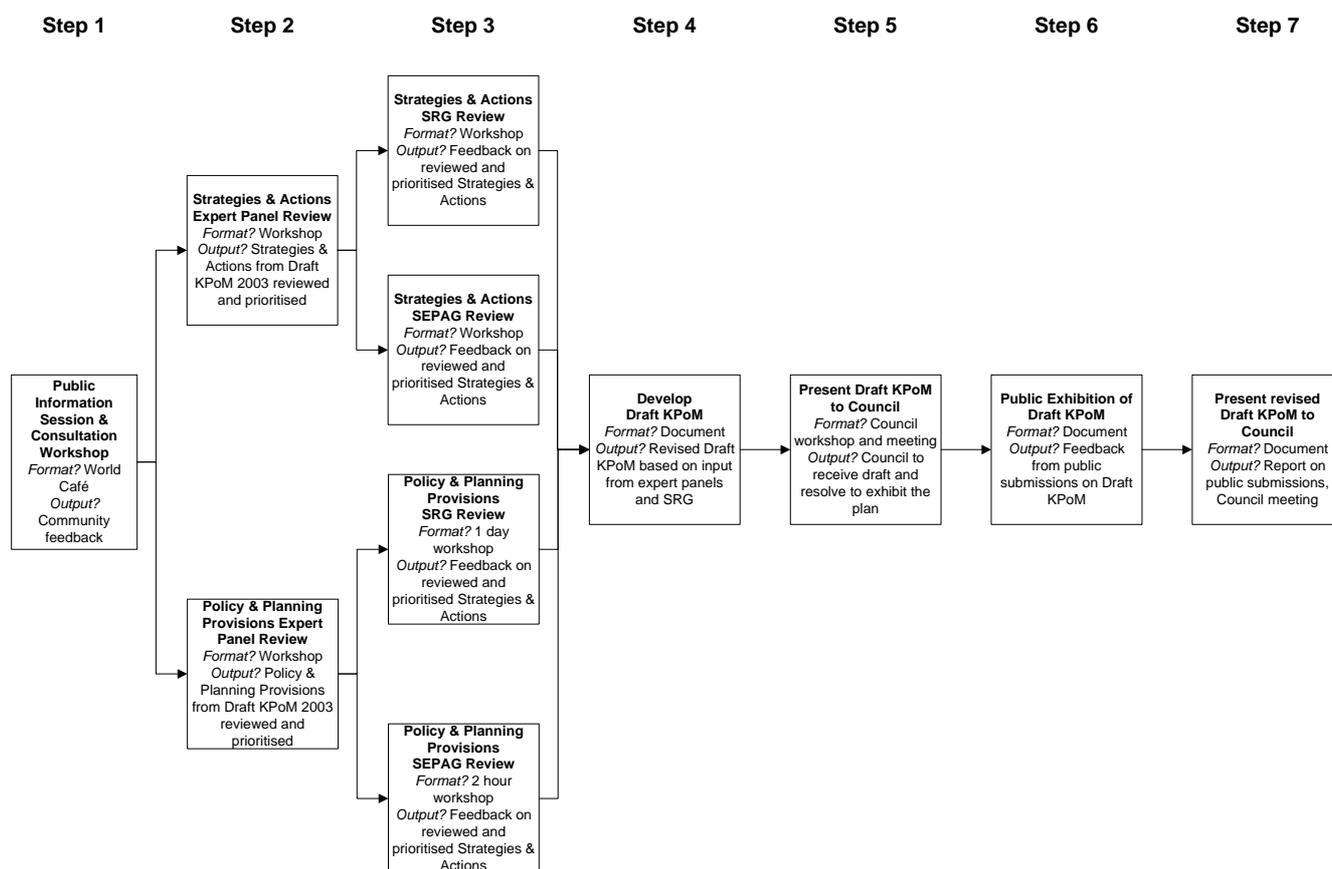


Figure 2 – The process that Lismore City Council will use to develop the Draft KPoM

## Purpose of the Stakeholder Reference Group

The purpose of the SRG is to give voice to the opinions of stakeholders within the agricultural, development and environmental interest sectors of the Lismore community during the development of the new KPoM.

The SRG will generally be asked to highlight the issues, impacts and opportunities that may arise during development and implementation of the new KPoM. The SRG will be asked to work towards solutions that provide the best outcomes for the project and the whole community. However, the SRG is not a decision making body and it is not a requirement that consensus always be reached on issues discussed.

## Selection of the Stakeholder Reference Group

Appointment to the group is via nomination following an advertised Expression of Interest. Nomination for membership of the group was invited from representatives of industry and community groups as well as individuals.

Preference was given to those applicants who are members of, and endorsed by, a recognised development and/or agricultural industry group or environmental interest group within the Lismore community. As a preference, member nominations were accepted from persons affiliated with and endorsed by recognised industry and/or environmental interest groups.

The criteria for selection to the group are:

1. Affiliation and endorsement by recognised industry and/or environmental interest group.
2. Previous involvement in community affairs.
3. Ability to feedback information to the stakeholder network represented.

The proposed composition of the SRG is:

| <b>Category:</b>   | <b># of people</b> |
|--|--------------------|
| SRG Chairperson (Lismore City Council)                               | 1                  |
| Elected representative (Lismore City Council)                        | 1                  |
| Agricultural and development industry interest group representatives | Max. 4             |
| Environmental interest group representatives                         | Max. 4             |
| Local ratepayer/resident interest group representative               | 1                  |
| <hr/>  |                    |
| Total SRG members  | 11                 |

From an assessment of the applicants against the criteria and proposed composition (above) it is recommended that the persons listed in Table 1, representing their associated organisations, be appointed to the Stakeholder Reference Group (SRG).

It should be noted that Kel Graham has withdrawn his application to the SRG and has formally endorsed Brenda Bryant (another applicant) as a representative of rural landholders and his preferred replacement on the SRG.

In addition to these recommended appointees it is recommended that Council select one elected member to the SRG. This will provide a Councillor perspective on the SRG. It is proposed that the Manager-Integrated Planning be appointed as the Chairperson.

Table 1 – list of recommended appointees to the SRG

| <b>Name</b>       | <b>Organisation/Affiliation</b>                         | <b>Type of Representation</b>           |
|-------------------|---|---|
| Mr Jolyon Burnett | Australian Macadamia Society                            | Agricultural/ Dev't industry group      |
| Mrs Kath Robb     | NSW Farmers Association, Lismore/<br>Alstonville Branch | Agricultural/ Dev't industry group      |
| Mr Malcolm Scott  | Consultant Town Planner                                 | Agricultural/ Dev't industry group      |
| Mr Andrew Tickle  | Richmond River Cane Growers Association                 | Agricultural/ Dev't industry group      |
| Ms Georgia Beyer  | Nature Conservation Trust of NSW                        | Environmental interest group            |
| Ms Sandra Heuston | Northern Rivers Wildlife Carers Inc                     | Environmental interest group            |
| Mr Tony Walker    | Richmond Landcare Inc                                   | Environmental interest group            |
| Mrs Lorraine Vass | Friends of the Koala                                    | Environmental interest group            |
| Mrs Brenda Bryant | Group of 30 rural land holders                          | Local ratepayer/resident interest group |

## Sustainability Assessment

### Sustainable Economic Growth and Development

The selection of members to the SRG includes development and agricultural industry representatives, which reflect economic and development sectors within the koala plan area. Through these members koala conservation measures can be developed in the context of an agricultural production landscape.

### Social Inclusion and Participation

The Stakeholder Reference Group forms a crucial component of the public consultation strategy of the Koala Plan of Management.

## Protect, Conserve and Enhance the Environment and Biodiversity

The koala is a local icon for the natural environment and biodiversity. Its protection and conservation through the koala plan will be a major achievement to meeting this strategic endeavour.

## Best-Practice Corporate Governance

Improved consultation at the initial stage of Council's projects is a key component of best practice governance.

## Comments

### Finance

Not required.

## Other staff comments

### Manager Integrated Planning

The Stakeholder Reference Group is an essential element of effective consultation, necessary to develop a draft Koala Plan of Management that is reflective of community interests and optimally integrated with activities in both the urban and rural landscape.

### Environmental Strategies Coordinator

The Coordinator co-authored this report with Ecologist. I confirm that Kel Graham has provided written endorsement for Brenda Bryant to be his replacement on the SRG and act as a representative for selected rural landholders within the KPoM area.

## Public consultation

The expression of interest was advertised in the Northern Rivers Echo from 18 November to 16 December 2010. Seventeen applications were received.

Each applicant's name, organisational affiliation, type of organisation represented, details of endorsement and previous involvement in community affairs is detailed in Attachment 1. The individual applications are individually listed from Attachment 2 to 18.

## Conclusion

Council staff have followed a transparent process in the invitation and selection of members to the Stakeholder Reference Group. The proposed SRG is a workable size for a responsive and well functioning reference group covering a broad range of industry and interest groups. All recommended representatives bring a good mix of skills, knowledge and experience required to assist the project team.

## Attachment/s

1. SRG Application - List of Applicants
2. SRG Application - Andrew Tickle Richmond River Can Growers Association Inc
3. SRG Application - Beverley Bryant Individual
4. SRG Application - Georgia Beyer Nature Conservation Trust of NSW
5. SRG Application - Jeffrey Zanette Richmond Banana Growers
6. SRG Application - Jim Morrison North Coast Environment Council
7. SRG Application - Jolyon Burnett Australian Macadamia Society
8. SRG Application - Julie Reid EnviTE Environment Training Education
9. SRG Application - Kath Robb NSW Farmers Association
10. SRG Application - Kel Graham Group
11. SRG Application - Lorraine Vass Friends of the Koala Inc

12. SRG Application - Malcom Scott Group
13. SRG Application - Melanie Duncan Individual
14. SRG Application - Sandra Heuston Northern Rivers Wildlife Carers
15. SRG Application - Tony Walker Richmond Landcare Inc
16. SRG Application - Wilfred Hoskins Individual
17. SRG Application - Brenda Bryant Individual
18. SRG Application - Greg Bennett Bushnut Traders Pty Ltd
19. SRG Application G Bennett Further Information

## Recommendation

That Council:

1. Acknowledge that the Stakeholder Reference Group will be chaired by the Manager-Integrated Planning.
2. Appoint one Councillor to the Draft Koala Plan of Management Stakeholder Reference Group.
3. Appoint the following nominees to the Draft Koala Plan of Management Stakeholder Reference Group namely: Mr Jolyon Burnett, Mrs Kath Robb, Mr Malcolm Scott, Mr Andrew Tickle, Ms Georgia Beyer, Ms Sandra Heuston, Mr Tony Walker, Mrs Lorraine Vass and Mrs Brenda Bryant.

| Name                | Organisation/Affiliation  | Role                    | Type of Representation                                    | Letter of endorsement           | Previous involvement in community affairs   | Comment   |
|---------------------|---|-------------------------|---|---------------------------------|---|---|
| Mr Greg Bennett     | Tweed-Richmond Organic Producers Organisation (TROPO)<br>Rural Ratepayers Association Lismore Inc | President               | Agricultural industry group and ratepayers interest group | Yes (from TROPO)                | High level of experience in recognised industry group and other organisations                                     | Endorsed by a recognised agricultural industry group  |
| Ms Georgia Beyer    | Nature Conservation Trust of New South Wales  | Project Manager         | Environmental interest group                              | Yes                             | High level of experience in recognised environmental interest group and experience in similar stakeholder groups. | Endorsed by a recognised environmental interest group operating within Lismore  |
| Mrs Brenda Bryant   |   |                         | Individual  | N/A                             | Yes, but not specified  | Individual application not endorsed by a recognised industry or environmental group   |
| Mrs Beverley Bryant |   |                         | Individual  | N/A                             | On the committee for the Draft KPoM 2003  | Individual application not endorsed by a recognised industry or environmental group   |
| Mr Jolyon Burnett   | Australian Macadamia Society  | Chief Executive Officer | Agricultural industry group                               | Yes                             | High level of experience in recognised industry group.  | Endorsed by a recognised agricultural industry group representing landholders involved in a significant industry in Lismore |
| Ms Melanie Duncan   |   |                         | Individual  | N/A                             | Involvement in FoK and LPFR   | Individual application not endorsed by a recognised industry or environmental group   |
| Mr Kel Graham       |   | Coordinator             | Landholder interest group                                 | No                              | No specified  | Representing a significant and group of rural landholders within the area proposed to be affected by the proposed KPoM      |
| Ms Sandra Heuston   | Northern Rivers Wildlife Carers Inc   | Member                  | Environmental interest group                              | Yes                             | High level of experience in recognised environmental interest group.  | Endorsed by a recognised environmental interest group operating within Lismore  |
| Mr Wilfred Hoskins  |   |                         | Individual  | N/A                             | High level of experience in community groups  | Individual application not endorsed by a recognised industry or environmental group   |
| Mr Jim Morrison     | North Coast Environment Council Inc   | President               | Environmental interest group                              | Self, as President of the group | High level of experience in recognised environmental interest group and experience in similar stakeholder groups. | Endorsed by a recognised environmental interest group   |
| Ms Julie Reid       | EnviTE  |                         | Environmental interest group                              | Yes                             | Yes, but not specified.   | Endorsed by a recognised environmental interest group operating within Lismore  |
| Mrs Kath Robb       | NSW Farmers Association, Lismore/Alstonville Branch   | Secretary               | Agricultural industry group                               | Yes                             | High level of experience in recognised industry group and other community organisations                           | Endorsed by a recognised agricultural industry group representing landholders involved in a significant industry in Lismore |
| Mr Malcom Scott     | Consultant Town Planner   | Consultant Town Planner | Development industry representative                       | No                              | Previously worked as a community development officer  | Significant planning knowledge, worked for a wide range of clients and representing develop industry interests              |
| Mr Andrew Tickle    | Richmond River Cane Growers Association   | Manager                 | Agricultural industry group                               | Yes                             | High level of experience in recognised industry group and other community organisations.                          | Endorsed by a recognised agricultural industry group representing landholders involved in a significant industry in Lismore |
| Mr Tony Walker      | Richmond Landcare Inc   | Treasurer               | Environmental interest group                              | Yes                             | High level of experience in recognised environmental interest group.  | Endorsed by a recognised environmental interest group operating within Lismore  |
| Mrs Lorraine Vass   | Friends of the Koala  | President               | Environmental interest group                              | Yes                             | High level of experience in recognised environmental interest group.  | Endorsed by a recognised environmental interest group operating within Lismore  |
| Mr Jeffrey Zannette | Richmond Banana Growers   | President               | Agricultural industry group                               | Yes                             | Not specified   | Endorsed by a recognised agricultural industry group  |

# Report

|                                      |   |
|--------------------------------------|---|
| <b>Subject</b>                       | <b>Investments - February 2011</b>  |
| <b>TRIM Record No</b>                | BP11/75:EF09/586  |
| <b>Prepared by</b>                   | Management Accountant   |
| <b>Reason</b>                        | Required by Local Government Act 1993, Local Government (General) Regulation 2005 and Council's Investment Policy |
| <b>Community Strategic Plan Link</b> | Best-Practice Corporate Governance  |

## Overview of Report

Investments as at 28 February 2011 are estimated to be \$43,196,301 subject to final market valuations typically provided after month end.

The interest rate reported for February 2011 is estimated to be 5.02% which is above the Bank Bill Swap Rate for the period of 4.92%. 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 – 31 January 2011</i> | <i>\$42,626,300</i> |
| • <i>Estimated Investments – at Market Value – 28 February 2011</i>      | <i>\$43,196,301</i> |

The current rate of return on investments for February 2011 is estimated to be 5.02% which is above the Bank Bill Swap Rate for the period of 4.92%. 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. A capital distribution of \$188,157.56 was received late January 2011 after the report to Council had been prepared. CPG Research and Advisory have been requested to advise if the capital distribution included an element of capital gain.

The estimated interest earned for the financial year to February 2011 remains favourable compared to the pro rated Budget. This is expected to fall into line when funds held for capital works are expended.

## **Richmond Tweed Regional Library**

To meet governance requirements associated with being the Executive Council for Richmond Tweed Regional Library, Council must report investments made by the Richmond Tweed Regional Library as part of its investment report. Richmond Tweed Regional Library's investments have now been incorporated into the attachments and shown as part of the total investments held by Lismore City Council.

## 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 28 February 2011 investments total \$43,196,301 and the annualised rate of return was 5.02%.

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 year comparison - graphical
4. Weighted Average Interest Rate with bank bill swap rate and last year comparison - graphical
5. Investment by Type - graphical
6. Investment by Institution as percentage of total portfolio - graphical

## Recommendation

That the report be received and noted.

**Capital Value Movements  
Summary of Investments held as at  
28 February 2011**

| Name of Investment / & Counterparty | Type of Investment      | Rating             | Assessment of return of Capital | Purchase Date | Maturity Date | Last Date Confirmed Valuation Available | Balance Sheet Valuation (Note 1) | Current Market Value (Note 4) |        |
|-------------------------------------|-------------------------|--------------------|---------------------------------|---------------|---------------|---|----------------------------------|-------------------------------|--------|
| <b>Cash Based Returns</b>           |                         |                    |                                 |               |               |   |                                  |                               |        |
| Blackrock Care & Maintenance Fund   | Managed Fund            | Not Rated (Note 7) | High                            | 15/10/2008    | N/A           | 31/01/2011                              | \$ 1,799,597                     | \$ 2,017,847                  | Note 3 |
| CBA Business On Line Banking A/C    | Cash Management Account | Cash               | High                            | N/A           | N/A           | 31/01/2011                              | \$ 2,944,500                     | \$ 2,944,500                  |        |
| Macquarie Cash Management Trust     | Cash Management Account | Cash               | High                            | 1/9/2006      | N/A           | 31/01/2011                              | \$ 260,696                       | \$ 260,696                    |        |
| UBS Cash Management Trust           | Cash Management Account | Cash               | High                            | N/A           | N/A           | 31/01/2011                              | \$ 270,882                       | \$ 270,882                    |        |
| ING Bank Australia Limited          | Term Deposit            | A-1                | High                            | 1/9/2010      | 1/3/2011      | 1/09/2010                               | \$ 2,000,000                     | \$ 2,000,000                  |        |
| Credit Union Australia (CUA)        | Term Deposit            | A-2                | High                            | 6/9/2010      | 7/3/2011      | 6/09/2010                               | \$ 2,000,000                     | \$ 2,000,000                  |        |
| Suncorp Bank                        | Term Deposit            | A-1                | High                            | 9/11/2010     | 21/3/2011     | 9/11/2010                               | \$ 1,000,000                     | \$ 1,000,000                  |        |
| Bank of Western Australia           | Term Deposit            | A1+                | High                            | 14/12/2010    | 13/4/2011     | 14/12/2010                              | \$ 2,000,000                     | \$ 2,000,000                  |        |
| Community GPS Australia Ltd         | Term Deposit            | Not Rated (Note 7) | High                            | 19/1/2011     | 19/4/2011     | 19/01/2011                              | \$ 1,000,000                     | \$ 1,000,000                  |        |
| Newcastle Permanent                 | Term Deposit            | A-2                | High                            | 28/1/2011     | 28/4/2011     | 28/01/2011                              | \$ 1,000,000                     | \$ 1,000,000                  |        |
| 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                  |        |
| 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     | 15/6/2011     | 15/02/2011                              | \$ 2,000,000                     | \$ 2,000,000                  |        |
| National Australia Bank             | Term Deposit            | A1+                | High                            | 7/12/2010     | 7/12/2011     | 7/12/2010                               | \$ 2,000,000                     | \$ 2,000,000                  |        |
| Summerland Credit Union             | Term Deposit            | A-2                | High                            | 17/1/2011     | 17/1/2012     | 17/01/2011                              | \$ 1,000,000                     | \$ 1,000,000                  |        |
| 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 |
| Magnolia (Flinders)                 | Floating Rate CDO       | BB-                | Low                             | 1/9/2006      | 20/3/2012     | 30/06/2010                              | \$ 255,000                       | \$ 255,000                    | Note 5 |
| Omega (Herley)                      | 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 (Merimbula)                  | 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 |

**Capital Value Movements  
Summary of Investments held as at  
28 February 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) |        |
|--|--------------------------|--------------------|---------------------------------|---------------|---------------|---|----------------------------------|-------------------------------|--------|
| Longreach - Series 25                              | Equity Linked Investment | A+                 | High                            | 2/4/2007      | 4/4/2014      | 30/06/2010                              | \$ 759,450                       | \$ 759,450                    | Note 2 |
| 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 (Glenelg)                                    | Floating Rate CDO        | CCC-               | Low                             | 1/9/2006      | 22/12/2014    | 30/06/2010                              | \$ 100,000                       | \$ 100,000                    | Note 5 |
| Bendigo Bank FR Sub Debt                           | Subordinate Debt         | BBB                | Medium                          | 1/9/2006      | 14/12/2015    | 31/08/2010                              | \$ 497,100                       | \$ 498,625                    | Note 5 |
| Elders Rural Bank Sub Debt                         | Subordinate Debt         | BBB-               | Medium                          | 1/9/2006      | 16/3/2016     | 31/08/2010                              | \$ 983,890                       | \$ 1,000,800                  | Note 5 |
| Zircon (Miami)                                     | Floating Rate CDO        | Early Termination  | Low                             | 1/9/2006      | 20/3/2017     | 30/06/2010                              | \$ -                             | \$ -                          | Note 5 |
| <b>Investment on Hand</b>                          |                          |                    |                                 |               |               |   | <b>\$ 42,959,616</b>             | <b>\$ 43,196,301</b>          |        |
| <b>Investments Redeemed during period (Note 6)</b> |                          |                    |                                 |               |               |   |                                  |                               |        |
| IMB Banking & Financial Services                   | Term Deposit             | A-2                | High                            | 26/8/2010     | 2/2/2011      | 26/08/2010                              | \$ 2,000,000                     | \$ 2,000,000                  |        |
| Community CPS Australia Ltd                        | Term Deposit             | Not Rated (Note 7) | High                            | 18/8/2010     | 14/2/2011     | 18/08/2010                              | \$ 2,000,000                     | \$ 2,000,000                  |        |
| Suncorp Bank                                       | Term Deposit             | A-1                | High                            | 18/8/2010     | 14/2/2011     | 18/08/2010                              | \$ 2,000,000                     | \$ 2,000,000                  |        |

**\$ 48,959,616    \$ 49,196,301**

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 | 33,058,129           |
| Internally Restricted | <u>10,138,172</u>    |
|                       | <u>\$ 43,196,301</u> |

**Estimated Interest  
Summary of Investments held as at  
28 February 2011**

| Name of Investment / & Counterparty | Type of Investment      | Rating             | Annualised Coupon / Interest Rate | Current market Value (Note 6) | Estimated Interest for Period | Weighted Interest for Period |
|-------------------------------------|-------------------------|--------------------|-----------------------------------|-------------------------------|-------------------------------|------------------------------|
| <b>Cash Based Returns</b>           |                         |                    |                                   |                               |                               |                              |
| Blackrock Care & Maintenance Fund   | Managed Fund            | Not Rated          | 0.00%                             | \$ 2,017,847                  | \$ -                          | 0.00%                        |
| CBA Business On Line Banking A/C    | Cash Management Account | Cash               | 4.10%                             | \$ 2,944,500                  | \$ 9,261                      | 0.25%                        |
| Macquarie Cash Management Trust     | Cash Management Account | Cash               | 4.75%                             | \$ 260,696                    | \$ 950                        | 0.03%                        |
| UBS Cash Management Trust           | Cash Management Account | Cash               | 3.82%                             | \$ 270,882                    | \$ 794                        | 0.02%                        |
| ING Bank Australia Limited          | Term Deposit            | A-1                | 6.25%                             | \$ 2,000,000                  | \$ 9,589                      | 0.26%                        |
| Credit Union Australia (CUA)        | Term Deposit            | A-2                | 6.08%                             | \$ 2,000,000                  | \$ 9,328                      | 0.25%                        |
| Suncorp Bank                        | Term Deposit            | A-1                | 6.25%                             | \$ 1,000,000                  | \$ 4,795                      | 0.13%                        |
| Bank of Western Australia           | Term Deposit            | A1+                | 6.05%                             | \$ 2,000,000                  | \$ 9,282                      | 0.25%                        |
| Community CPS Australia Ltd         | Term Deposit            | Not Rated (Note 7) | 6.20%                             | \$ 1,000,000                  | \$ 4,756                      | 0.13%                        |
| Newcastle Permanent                 | Term Deposit            | A-2                | 6.00%                             | \$ 1,000,000                  | \$ 4,603                      | 0.13%                        |
| Defence Force Credit Union          | Term Deposit            | Not Rated (Note 7) | 6.26%                             | \$ 2,000,000                  | \$ 9,604                      | 0.26%                        |
| Westpac Banking Corporation         | Term Deposit            | AA                 | 6.14%                             | \$ 2,000,000                  | \$ 9,420                      | 0.26%                        |
| Newcastle Permanent                 | Term Deposit            | A-2                | 5.88%                             | \$ 1,000,000                  | \$ 2,094                      | 0.06%                        |
| Bank of Cypress                     | Term Deposit            | Not Rated (Note 7) | 6.15%                             | \$ 1,000,000                  | \$ 2,190                      | 0.06%                        |
| Savings & Loans Credit Union        | Term Deposit            | Not Rated (Note 7) | 6.03%                             | \$ 2,000,000                  | \$ 4,295                      | 0.12%                        |
| Savings & Loans Credit Union        | Term Deposit            | Not Rated (Note 7) | 6.26%                             | \$ 1,000,000                  | \$ 4,802                      | 0.13%                        |
| Credit Union Australia (CUA)        | Term Deposit            | A-2                | 6.20%                             | \$ 1,000,000                  | \$ 4,756                      | 0.13%                        |
| Southern Cross Credit Union         | Term Deposit            | Not Rated (Note 7) | 6.10%                             | \$ 2,000,000                  | \$ 9,359                      | 0.25%                        |
| IMB Banking & Financial Services    | Term Deposit            | A-2                | 6.24%                             | \$ 1,000,000                  | \$ 4,787                      | 0.13%                        |
| Bank of Queensland                  | Term Deposit            | A-2                | 6.45%                             | \$ 1,000,000                  | \$ 4,948                      | 0.13%                        |
| Police & Nurses Credit Union        | Term Deposit            | Not Rated (Note 7) | 6.25%                             | \$ 1,000,000                  | \$ 4,795                      | 0.13%                        |
| Southern Cross Credit Union         | Term Deposit            | Not Rated (Note 7) | 6.40%                             | \$ 1,000,000                  | \$ 4,910                      | 0.13%                        |
| IMB Banking & Financial Services    | Term Deposit            | A-2                | 6.20%                             | \$ 2,000,000                  | \$ 8,833                      | 0.24%                        |
| Bank of Queensland                  | Term Deposit            | A-2                | 6.45%                             | \$ 2,000,000                  | \$ 9,896                      | 0.27%                        |
| Suncorp Bank                        | Term Deposit            | A-1                | 6.28%                             | \$ 2,000,000                  | \$ 4,473                      | 0.12%                        |
| National Australia Bank             | Term Deposit            | A1+                | 6.60%                             | \$ 2,000,000                  | \$ 10,126                     | 0.28%                        |
| Summerland Credit Union             | Term Deposit            | A-2                | 6.35%                             | \$ 1,000,000                  | \$ 4,871                      | 0.13%                        |
| Deutsche Bank CG Yield Curve Note   | Euro Bond               | A+                 | 6.99%                             | \$ 247,500                    | \$ 1,341                      | 0.04%                        |
| Magnolia (Flinders)                 | Floating Rate CDO       | BB-                | 6.24%                             | \$ 255,000                    | \$ 1,436                      | 0.03%                        |
| Omega (Henley)                      | Floating Rate CDO       | CCC                | 5.63%                             | \$ 280,000                    | \$ 1,728                      | 0.03%                        |
| Commonwealth Bank of Australia      | Term Deposit            | A1+                | 7.00%                             | \$ 400,000                    | \$ 2,148                      | 0.06%                        |
| Beryl (Esperance 2)                 | Floating Rate CDO       | Early Termination  | 0.00%                             | \$ -                          | \$ -                          | 0.00%                        |

Note 1,3

**Estimated Interest  
Summary of Investments held as at  
28 February 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 |
|-------------------------------------|--------------------------|-------------------|-----------------------------------|-------------------------------|-------------------------------|------------------------------|
| Corsair (Torquay)                   | Floating Rate CDO        | CCC-              | 0.00%                             | \$ 20,000                     | \$ -                          | 0.00%                        |
| Zircon (Merimbula)                  | Floating Rate Note       | Early Termination | 0.00%                             | \$ -                          | \$ -                          | 0.00%                        |
| Corsair (Kakadu)                    | Floating Rate CDO        | CCC-              | 6.14%                             | \$ 125,000                    | \$ 2,355                      | 0.02%                        |
| Longreach - Series 25               | Equity Linked Investment | A+                | 0.00%                             | \$ 759,450                    | \$ -                          | 0.00%                        |
| Helium (Scarborough)                | Floating Rate CDO        | CCC-              | 6.63%                             | \$ 16,000                     | \$ 1,017                      | 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%                        |
| Aptex (Glenelg)                     | Floating Rate CDO        | CCC-              | 6.53%                             | \$ 100,000                    | \$ 2,505                      | 0.01%                        |
| Bendigo Bank FR Sub Debt            | Subordinate Debt         | BBB               | 5.31%                             | \$ 498,625                    | \$ 2,037                      | 0.06%                        |
| Elders Rural Bank Sub Debt          | Subordinate Debt         | BBB-              | 5.48%                             | \$ 1,000,800                  | \$ 4,204                      | 0.11%                        |
| Zircon (Miami)                      | Floating Rate CDO        | Early Termination | 0.00%                             | \$ -                          | \$ -                          | 0.00%                        |
| <b>Investment on Hand</b>           |                          |                   |                                   | <b>\$ 43,196,301</b>          | <b>\$ 176,288</b>             | <b>4.64%</b>                 |

Note 2.5

Note 4

**Investments Redeemed during period**

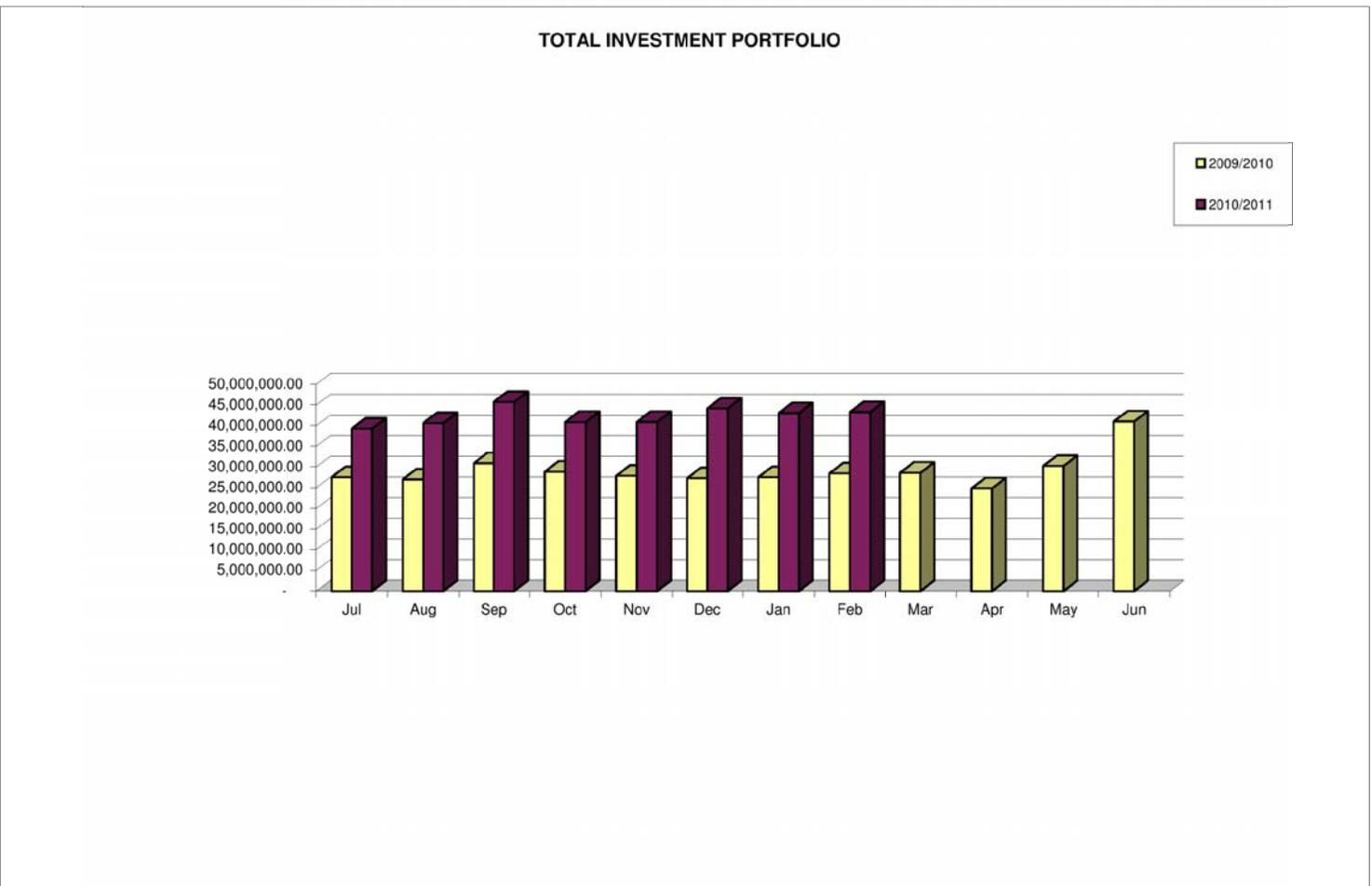
|                                  |              |           |       |              |          |       |
|----------------------------------|--------------|-----------|-------|--------------|----------|-------|
| IMB Banking & Financial Services | Term Deposit | Not Rated | 6.00% | \$ 2,000,000 | \$ 6,904 | 0.19% |
| Community CPS Australia Ltd      | Term Deposit | Not Rated | 6.03% | \$ 2,000,000 | \$ 3,635 | 0.10% |
| Suncorp Bank                     | Term Deposit | Not Rated | 6.35% | \$ 2,000,000 | \$ 3,479 | 0.09% |

|                      |                   |
|----------------------|-------------------|
| 28/2/2011            | 5.02%             |
| <b>\$ 49,196,301</b> | <b>\$ 190,306</b> |

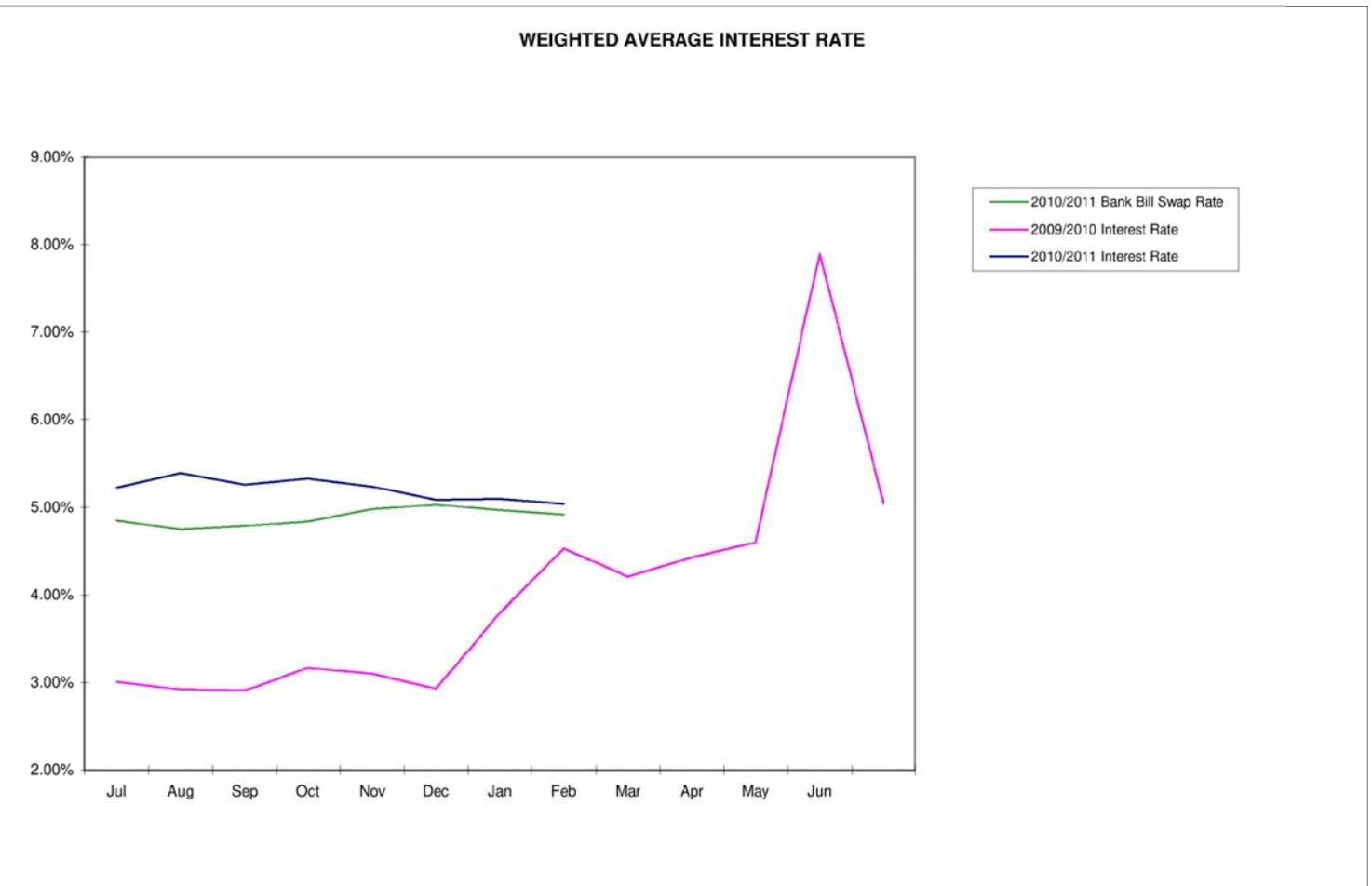
**Investment Income Earned vs. Budget Year to Date**

|                                   |              |
|-----------------------------------|--------------|
| Estimated interest earned to date | \$ 1,586,099 |
| Pro Rata annual budget            | \$ 1,434,733 |

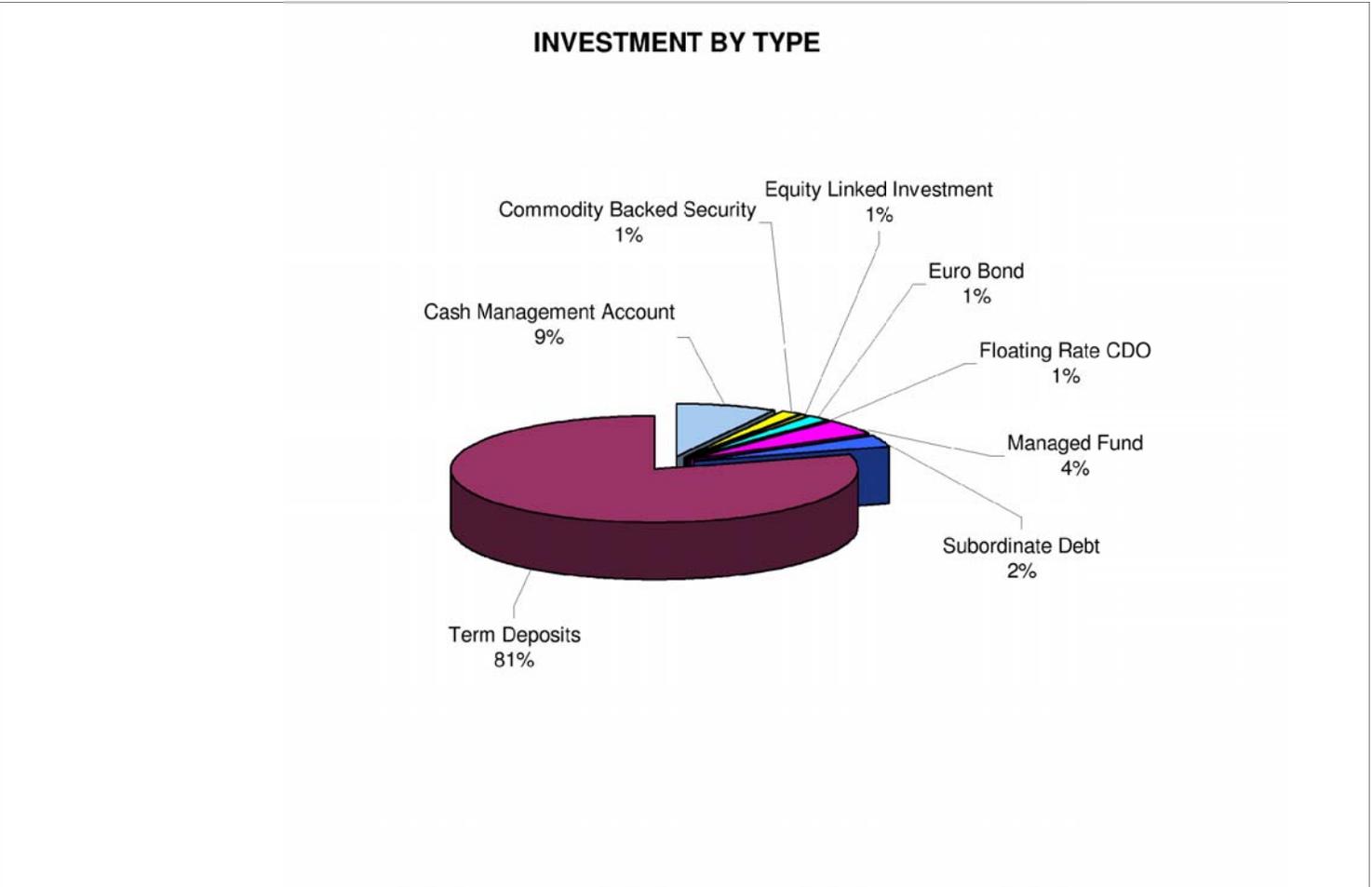
- Note 1: Interest return is calculated on (actual interest + accrued interest + realised gains - losses on disposal - expenses) / principal value
- Note 2: Capital Guaranteed note if held to maturity
- Note 3: Blackrock Care & Maintenance Fund interest rate is shown as zero as regular distributions 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.

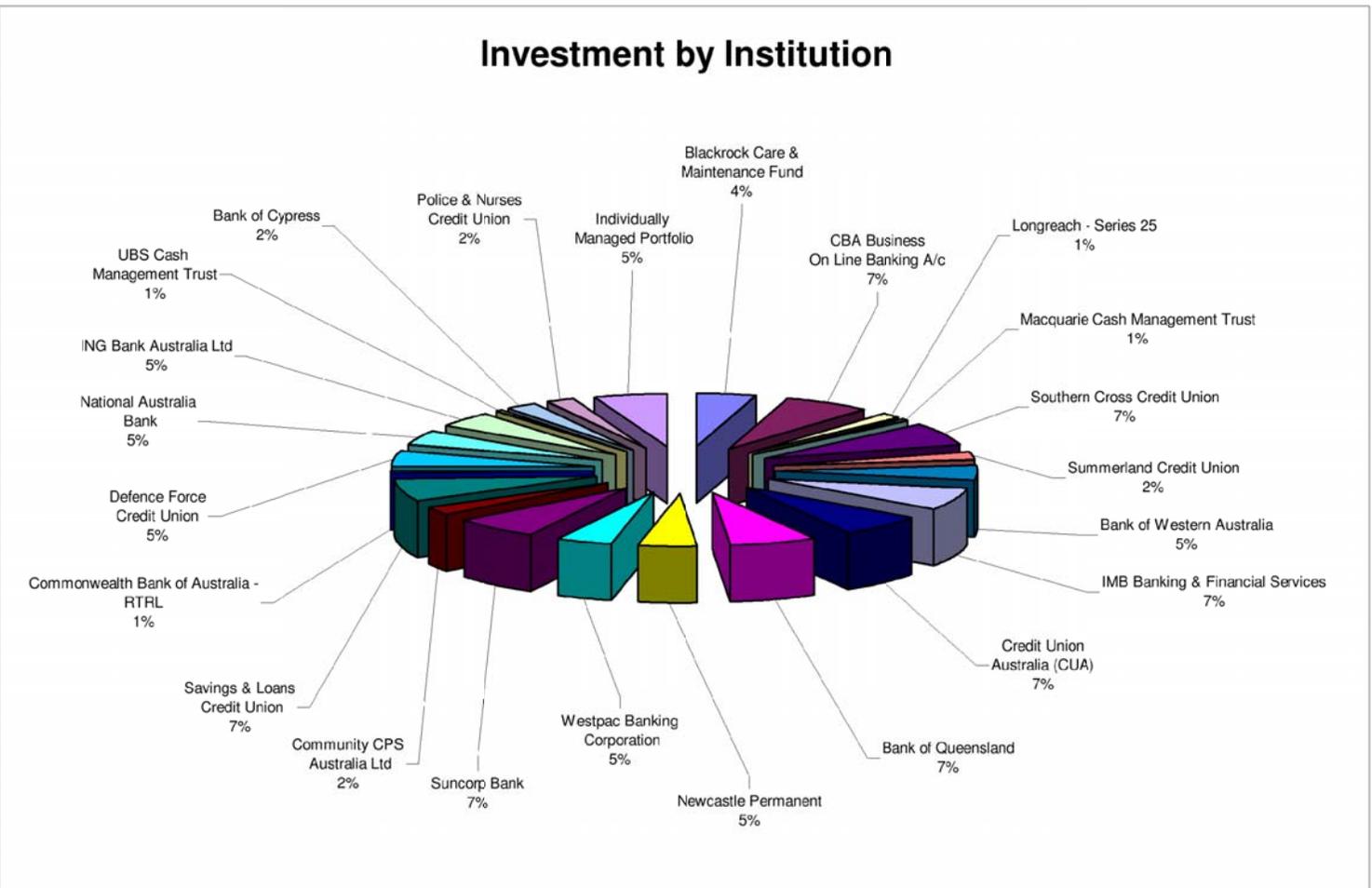


2010-11 Investment Report for council.xls



2010-11 Investment Report for council.xls





# Committee Recommendations

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## Committee Recommendation

Traffic Advisory Committee Meeting Minutes of 16 February 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 MAGELLAN ROOM, LISMORE CBD CENTRE, 55 MAGELLAN STREET, ON WEDNESDAY, 16 FEBRUARY 2011 AT 10.00AM.**

## Present

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

## In Attendance

Bill MacDonald (*Traffic & Emergency Services Co-ordinator*). Neville Drews (*TAC2/11 and TAC9/11*) and Graham Meineke (*TAC7/11 and TAC9/11*).

## Apologies

An apology for non-attendance on behalf of Thomas George MP (*Member for Lismore*) was received and accepted.

## Confirmation of Minutes

**TAC1/11** The Committee was advised that the minutes of the Traffic Advisory Committee held on 15 December 2010 were confirmed by Council on 8 February, 2011.

In addition it was requested that traffic issues raised in the **McLeans Ridges traffic study relating to excessive speeds** recorded on Cameron Road, Cowlong Road and Boatharbour Road, be raised with Police with a request that regular patrols be carried out in this area. Snr Const Clark noted Council's request and asked that the results of the speed surveys be forwarded to ensure more specific targeting of peak periods.

**TAC2/11** **It was agreed** that the results of speed surveys undertaken on Cameron Road, Cowlong Road and Boatharbour Road would be forwarded to Police for their attention. (R4503,R4408,R4501)

## Disclosure of Interest

NIL

## Part 'A' – Committee Recommendations

### **Proposed Residential Development on Cameron Road**

Council's Senior Strategic Planner, Neville Drews, was present for this item and tabled several plans showing a proposed residential development on Cameron Road.(R4503)

It was noted that access to individual blocks had direct frontage onto Cameron Road and due to the density of the proposal, the Committee supported the introduction of a 60kph speed limit. To ensure compliance with this lower limit, traffic calming measures should also be included. Concerns were also raised regarding the current configuration of the intersection of Cameron Road and Boatharbour Road and it was noted that this intersection had been before the Committee in the past.

**Proposed Residential Development on Cameron Road (Cont'd)**

Some additional signposting measures had been carried out. However, due to the significant increase in volumes that could be expected as a result of the new development, it was suggested that further works would be required to bring the intersection up to a suitable standard.

**TAC3/11**

**Recommended:** That a 60kph speed limit be introduced on the section of Cameron Road relative to the proposed subdivision with adequate physical traffic calming measures to be installed at the same time to ensure compliance with the lower speed limit.

**Further** that a requirement be included that the intersection of Cameron Road and Boatharbour Road be upgraded to a higher standard to cater for the increased traffic movements in this area.

**Northern Rivers Cycling Club – Cycle Road Race Application - Dungarubba**

Submitting application for approval of road races from 1 April 2011 to 31 October 2011 which commence at Dungarubba and enclosing traffic management plan and copy of the Club's certificate of public liability insurance. (CI11/2437: EF09/1304)

The proposed cycle road races have been held in this location for the past couple of years without incident. Council's Rural Works Engineer will advise of any likely impact planned maintenance or construction works will have. No objection in principle was given to the proposed races provided Council is indemnified against any incident that may occur as a result of the races.

The course will need to be checked by the organisers prior to each event as road conditions will vary and it may not be possible to carry out maintenance to suit individual events. It should be the organisers' responsibility to assess the condition of the route prior to each event and decide if it is safe to proceed.

**TAC4/11**

**Recommended:** That approval be granted in accordance with the traffic management plan submitted and provided the above conditions are included, and that the races are conducted in accordance with the NSW Guidelines for Bicycle Road Races.

**Pirlo's Fruit Barn – 225 Union Street South Lismore**

Raising concerns regarding dangers created for motorists exiting their facility on to Snow Street due to frequent parking of vehicles close to the driveway. (R6935,R6938,CR7397/10)

An on site meeting was held with Suzanne Dhesi to further discuss concerns.

The introduction of a 'No Stopping' zone prohibiting parking within 10m of the driveway is proposed to address current issues.

**TAC5/11**

**Recommended:** That a 'No Stopping' zone be introduced on the southern side of Snow Street between 10m east of the exit driveway to Pirlo's Fruit Barn and the western side of the first driveway to Australian Air Express at 4 Snow Street.

**Nimbin Mardi Grass 2011**

Forwarding a Traffic Management Plan (TMP) for this year's Mardi Grass and seeking approval for closures and restrictions as indicated on the plan. (EF09/2129)

The TMP had been developed and adjusted over a number of years to ensure its suitability for the proposed activities to be held in conjunction with the Mardi Grass. Nimbin Police have advised that there were no significant traffic issues last year.

**TAC6/11** **Recommended:** That approval be granted for the implementation of the traffic control measures as shown on the Traffic Management Plan.

**Alexandra Cheatham – Duncan Road and Rayward Road, Dunoon**

Requesting a review of existing speed limit signage on Duncan Road and Rayward Road. (C110/1060:R3401,R3402)

The current speed limit on Duncan Road is the default rural limit of 100kph. Existing signage at the start of Duncan Road when motorists leave Dunoon is the old de-restriction sign rather than 100kph which has generally been more suitable. However, as these signs are being gradually phased out as part of routine sign maintenance, it is timely to review the speed limit on Duncan Road to ascertain whether a lower limit is more appropriate.

Rayward Road is a gravel road formation approximately 1km in length. There are a number of plantations along the road which would increase non local traffic. As gravel road conditions are changeable it was suggested that a suitable warning sign 'Caution Gravel Road - Drive to Conditions' be erected at the start of Rayward Road.

**TAC7/11** **Recommended:** That the issue of the appropriate speed limit on Duncan Road be referred to the Roads & Traffic Authority for assessment and determination.

**Further** that a warning sign 'Caution Gravel Road - Drive to Conditions' be erected at the start of Rayward Road.

## Part 'B' – Determined by Committee

**Kerrie Lyon – Plantings at Corner of Ballina and Wyrallah Roads**

Referring to previous request that the shrubs on this corner be pruned regularly due to the lack of vision whilst exiting her driveway at 121 Ballina Road and enquiring whether anything can be done to deter cyclists riding around the corner, accelerating and gathering speed almost at her driveway which is a hazard when backing out.

(C111/1827:R6408-16)

The Committee in February 2010 resolved that the matter of maintaining the shrubbery on the corner of Ballina Road and Wyrallah Road at a suitable level to afford maximum visibility of oncoming traffic be referred to Council's Parks and Gardens Section for its attention. As this continues to be a problem with existing plantings and in the interest of public safety, it is suggested that the existing plantings be removed and replaced with lower and more appropriate plantings that are more suited.

**Kerrie Lyon – Plantings Corner Ballina and Wyrallah Roads (Cont'd)**

A chicane was installed on the footpath where both roads intersect a number of years ago. This has resulted in a significant reduction in cyclists' ability to negotiate the corner at speed. Issues have been raised in the past from residents who have motor scooters and further modifications to the chicane would impact on their ability to negotiate the device.

**TAC8/11** **It was agreed** that this matter be again referred to Council's Parks and Gardens Section with a view to removing the existing plantings on the south west corner of Ballina Road and Wyrallah Road and replacing them with lower plantings more suited that will address current problems of restricted sight distance.

**DA10/543 – Outdoor Dining Areas and Special Events/Markets/Land Use - CBD**

Council has received a development application for commencement of outdoor dining areas and special events/markets/land use within nominated areas of the Lismore CBD including Crowther, Fredericks, Kirklands and Campbell Car Parks and Spinks, Riverside and Heritage Parks. (AD11/732:DA10/543)

Before Council determines the application, it was requested that the Traffic Advisory Committee comment on any relevant traffic issues.

Newton Denny Chapelle were commissioned to prepare a comprehensive new 'Lismore City Centre Outdoor Dining and Events' Development Application. The intention is that the new DA should make it faster and easier for businesses, organisations, community groups or individuals to apply for permission to hold events, entertainment, promotions or activities in the City Centre. In most instances, they will simply need to fill out a succinct application form, rather than lodge a DA.

The new DA is also geared towards helping café owners and restaurateurs who want to take advantage of Council's new Outdoor Dining Policy, which aims to increase the incidence of outdoor dining and encourage more sophisticated drinking and dining options.

From a traffic perspective it is important to ensure that both pedestrian and vehicular traffic flows are not significantly disrupted or restricted in general apart from times when specific events are held which will necessitate the need for Traffic Management Plans (TMP) to be developed and be adequate for current conditions. There are several TMPs in place already that act in an ongoing capacity subject to certain conditions. There is the opportunity in the future for their number to be expanded to address the needs of additional locations within the CBD should they be required.

**TAC9/11**

**It was agreed** that the Committee support the proposed new DA subject to conditions being in place to ensure pedestrian and vehicular traffic flows are not significantly disrupted or restricted in general and that the Committee consider additional TMPs for use in other locations as submitted in the future.

**DA11/8 - Residential Building (5 Units) – 495/497 Ballina Road, Goonellabah**

Council has received a development application for a Residential Building (5 Units), located at DP 18796 lot 7, DP 18796 lot 8 – 495/497 Ballina Road, Goonellabah. (AD11/207:DA11/8)

Before Council determines the application, it was requested that the Traffic Advisory Committee comment on any relevant traffic issues.

The location of the proposed unit development is on the southern side of Ballina Road approximately 130m below Invercauld Road. Motorists driving from the west wanting to turn right into the property would have to prop just around a bend in the road making it extremely dangerous.

The installation of a centre median as part of the development is supported however, regardless it is likely that in the future this section of Ballina Road will have a median installed along its centre making it impossible to negotiate the driveway from the west. If room permits a deceleration lane or at the very least a significant splay should be included on the eastern side of the driveway, between the footpath and the through road, to allow the opportunity to quickly exit the highway.

There is no sealed road shoulder in front of the property to allow the option of slowing down removed from the through lane. There is only one space allowed for visitor parking onsite to cater for five units which is apparently in accordance with the DCP. It is highly unlikely this will service the needs of the development resulting in visitors being forced to park 'onstreet'. Given the location this is not desirable. Every effort should be made to maximise the availability of onsite parking for visitors.

**TAC10/11** **It was agreed** that if room permits a deceleration lane or at the very least a significant splay be included on the eastern side of the driveway to allow the opportunity to quickly exit the highway.

**Further** that every effort be made to maximise the availability of onsite parking for visitors.

### **Pedestrian and Mobility Plans (PAMP)**

The RTA has requested three items as proposed in the new PAMP be submitted to the Committee seeking its support. (EF09/2168)

1. Marked pedestrian crossing in front of Wyrallah Road Public School – proposal to upgrade approach to crossing.
2. Pedestrian refuge on Avondale Avenue at its intersection with Wyrallah Road – proposal to provide an upgraded facility including a new centre median and kerb ramps.
3. Pedestrian refuge on Keen Street in front of Lismore Central Shopping Centre – proposal to provide additional blister and kerb ramp.

All of the above projects have been identified during the course of reviewing the current PAMP and are necessary to bring the facilities up to the appropriate standard.

**TAC11/11** **It was agreed** that the Committee support the proposed upgrade of the pedestrian facilities as indicated on the plans.

### **Jan Tabak – Access to 168 Dawson Street, Girards Hill, via Allen Street**

Requesting consideration of introducing 'No Parking' or widening Allen Street off Parkes Street due to problems being experienced in gaining vehicular access to the rear of their property at 168 Dawson Street. (C111/2513:R7402)

Allen Street is bitumen sealed but is only one lane in width. The street between property boundaries is very narrow and offers little opportunity to widen the road, however this is a matter for Council's Roads Section to determine.

Most properties along Allen Street have their frontages directly on to Allen Street and any parking opportunity is limited. Due to the intermittent nature of parking in general and its inconsistent availability on one side of the street, the imposition of a 'No Parking' zone is not practical and would inconvenience most residents.

As this is a 'No Through Road' largely used by local traffic, it is suggested that the best way to deal with any access problems is to raise particular incidents with the appropriate authority who can address the issue directly with any offender.

**TAC12/11** **It was agreed** that a 'No Parking' zone not be introduced in Allen Street due to the intermittent nature of parking in general and its inconsistent availability on one side of the street.

**Further** that it be suggested to the writer that they report any future incident of motorists blocking road access to the appropriate authority to deal with individually.

#### **Caniaba Road Speed Limit – West of Fredericks Road**

Council's Design Services Section submitted a plan showing the proposed reconstruction of Caniaba Road west of Fredericks Road and requested consideration of extending the existing 80kph speed limit for a distance of approximately 600m.  
(R4701,RP10/11)

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The road was inspected and in its current condition it was likely that a 80kph speed limit was more appropriate. Given that the road is to be reconstructed and additional intersections would be included in the future as part of a proposed residential development, it was suggested that an assessment should be carried out when future works and development has been completed.

**TAC13/11** **It was agreed** that the matter of the appropriate speed limit for Caniaba Road be considered in the future once proposed roadworks and development had been completed.

### Closure

This concluded the business and the meeting terminated at 10.55 am.

# Financial Assistance - Section 356

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

Budget: \$21,400                      Spent to date: \$14,040.69

**Volunteering Northern Rivers** requesting Council waive the hire fees (\$471) for use of the City Hall to hold the Lismore Community Volunteers Expo on 12 May 2011.

**Recommendation:** In accordance with Clause 5 of the policy, a donation 100% of the hire fees applies.

**\$471.00**

*In accordance with policy.*

**b) Council Contributions to Charitable Organisations**

**Waste Facility – Policy 5.6.1 (GL390.965.15)**

Budget: \$15,000                      Spent to date: \$9,010.31

January 2011

Animal Right & Rescue \$21.82  
 Multitask \$70.13  
 Five Loaves \$290.90  
 Friends of the Koala \$33.17  
 Lismore Soup Kitchen \$14.55  
 LifeLine \$290.90  
 Westpac Life Saver Helicopter \$50.92

**Total**

**\$772.39**

*In accordance with policy.*

**c) Development & Other Application Fees – Policy 1.4.7 (GL390.200.15)**

Budget: \$300                              Spent to date: \$2,707.48

**Lismore Preschool Kindergarten** requesting Council waive all fees (\$504) associated with a development application for a new fence at Lismore Preschool Kindergarten (CI11/3040 DA11/21).

**Recommendation:** In accordance with clause A of the policy, a donation of 50% of the development application fees applies.

**\$252.00**

*In accordance with policy.*

**d) Mayor’s Discretionary Fund (GL390.485.15)**

Budget: \$2,700                              Spent to date: \$950

The Rotary Club of Lismore are holding a Dinner Dance on 19 March to raise money for the victims of the Queensland and Victorian floods (ED11/2719)

**\$50.00**

## Financial Assistance – Section 356

Mr Shawn Sivewright is seeking a donation to costs associated with attending a national training camp at the AIS as part of his selection in a National team to represent Australia in karate (ED11/2594).

**\$50.00**

### Recommendation

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

Confidential Business

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## Confidential Matters–Closed Council Meeting

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

Section 10A(2) – Local Government Act 1993:

- a) personnel matters concerning particular individuals;
- b) the personal hardship of any resident or ratepayer;
- c) information that would, if disclosed, confer a commercial advantage of a person with whom the Council is conducting (or proposes to conduct) business;
- d) commercial information of a confidential nature that would, if disclosed:
  - i) prejudice the commercial position of the person who supplied it, or
  - ii) confer a commercial advantage on a competitor of the Council, or
  - iii) reveal a trade secret;
- e) information that would, if disclosed, prejudice the maintenance of law;
- f) matters affecting security of the Council, Councillors, Council staff or Council property;
- g) advice concerning litigation, or advice, that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege;
- h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

### Clause 34 of Council Code of Meeting Practice

Representations from the public as to whether part of the meeting should be closed to the public can be made after the motion to close the meeting has been moved and seconded for a period of 10 minutes.

### Recommendation

That the Council exclude members of the press and public from the meeting and move into Closed Council Meeting to consider the following matters:

|                            |  |
|----------------------------|--|
| <b>Item</b>                | <b>17.1 Mayoral Minute - General Manager's Performance Review - Mid-term Monitoring</b>  |
| <b>Grounds for Closure</b> | Section 10A(2) (a):  |
| <b>Public Interest</b>     | Discussion of this matter in an open meeting would on balance be contrary to the public interest because it relates to personnel matters concerning particular individuals (other than Councillors). |

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**MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE CITY OF LISMORE HELD IN THE COUNCIL CHAMBERS ON TUESDAY, 8 FEBRUARY 2011 AT 6.00PM.**

## Present

Mayor, Councillor Dowell; Councillors Battista, Chant, Clough, Ekins, Graham, Houston, Marks, Meineke, Smith and Yarnall, together with the General Manager, Executive Director-Sustainable Development, Executive Director-Infrastructure Services, Manager-Finance, Manager-Corporate Services, Information Services Manager, Acting Manager-Arts, Tourism and Leisure, Corporate Compliance Co-ordinator, Media Officer, Social Planner, Art Gallery Director, and Elected Representatives Support Officer

## Apologies and Leave of Absence

### Apologies – Nil

289/11 **RESOLVED** that: a leave of absence be granted for

Councillors Battista from 18 February 2011 to 25 February 2011  
Councillor Chant from 21 February 2011 to 25 February 2011  
Councillor Graham from 19 February 2011 to 25 February 2011  
Councillor Marks from 19 February 2011 to 13 March 2011  
Councillor Smith from 21 February 2011 to 25 February 2011

(Councillors Clough/Chant)

## Confirmation of Minutes

290/11 **RESOLVED** that the minutes of the Lismore City Council held on 14 December 2010 be confirmed.

(Councillors Marks/Clough)

## Disclosure of Interest

Nil

## 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:

### **Monica Boenigk – Notice of Motion Nimbin Park**

Monica broadly outlined the need and benefits of the proposed park to residents and visitors to Nimbin. She stressed the connectivity of the Park to all parts of the village. Monica sought the support of Council in establishing the Park.

**Greg Telford - Rekindling The Spirit - Request for Financial Assistance**

Mr Telford gave a brief history of the Rekindling The Spirit, its role and problems behind the delay in constructing on the Goonellabah site. He stressed the benefit the facility would bring to the local community.

**Stan Heywood - December 2010 Quarterly Budget Review Statement**

Mr Heywood questioned the work practises of Parks and Garden Section with particular emphasis on weeds such as lantana and umbrella trees. He questioned the quality of road work undertaken citing Dunoon Road as an example.

**Mayoral Minutes**

**8.1 Donation to Queensland Premier's Flood Appeal**

A MOTION WAS MOVED that Council donates \$5000 to the Queensland Premier's Disaster Relief Appeal Fund.  
(Councillors Dowell/Clough) (BP11/19)

AN AMENDMENT WAS MOVED that That Council donates \$5000 to the Lockyer Valley Regional Council-Grantham Flood Support Appeal.  
(Councillors Graham/Marks) (BP11/19)

On submission to the meeting the AMENDMENT was DEFEATED

**Voting for:** Councillors Meineke, Chant, Marks, Battista and Graham

**Voting against:** Councillors Houston, Clough, Smith, Dowell, Yarnall and Ekins

291/11 **RESOLVED** that: Council donates \$5000 to the Queensland Premier's Disaster Relief Appeal Fund  
(Councillors Dowell/Clough) (BP11/19)

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

**Voting against:** Councillor Ekins

### **S.1 Recruitment of the General Manager**

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A MOTION WAS MOVED that Council:

1. Endorses the selection criteria and the recruitment process including interview arrangements in the Position Information package as circulated to Councillors.
2. Endorses the total remuneration package outlined in the confidential Mayoral Memo as circulated to Councillors.
3. Forms a Recruitment Panel consisting of the Mayor and Councillors Clough, Battista, Graham and Yarnall to oversee the process leading to the recruitment of a new General Manager, to select and interview a short list of candidates for the role and to recommend to Council a preferred number of candidates for interview by the whole Council and selection of the new General Manager.

(Councillors Dowell/Graham) (BP11/29)

#### **Procedural Motion**

292/11 **RESOLVED** that: this matter be deferred for consideration later in the meeting

(Councillors Battista/Ekins) (BP11/29)

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

**Voting against:** Nil

## Notice of Motions

### **10.1 Nimbin Park**

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293/11 **RESOLVED** that Council commits to the future of Nimbin Village Park by:

1. Continuing to work with the Friends of Nimbin Village Park on planning for future development.
2. Commits any available staff time to seeking grants for the Parks development.
3. Consider including funding for the Nimbin Village Park in the planning process for the next four year delivery plan in 2013.
4. Including Nimbin Park in the ten year sport and recreation plan

(Councillors Smith/Clough) (BP10/741)

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

### 10.2 Internal Audit Committee

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294/11

**RESOLVED** that :

1. Council investigates the establishment of an independent internal auditor and an internal audit committee as strongly recommended in the Internal Audit Guidelines as issued by the NSW Division of Local Government in September 2010.
2. Council retains a suitably qualified and independent trainer and consultant to attend the Council briefing to explain in detail the need, workings and usefulness of an independent internal auditor and the internal audit committee to Councillors and staff.
3. Staff prepare a report to be presented at a council briefing, before the ordinary Council meeting in April, on the details of establishing an independent internal auditor and internal audit committee

(Councillors Yarnall/Clough) (BP11/17)

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

**Voting against:** Councillor Graham

### Altering Order of Business

295/11

**RESOLVED** that the order of business be altered to debate the following matters raised during Public Access:

Report – Rekindling The Spirit – Request for Financial Assistance p.42.

Report – December 2010 Quarterly Budget Review Statement p. 73.

(Councillors Graham/Chant)

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

**Voting against:** Nil

#### 12.4 Rekindling The Spirit - Request for Financial Assistance

A MOTION WAS MOVED that Council not consider the request for financial assistance from Rekindling The Spirit as part of the 2011/12 budget and operational plan process.

(Councillors Meineke/Marks) (BP10/721)

On submission to the meeting the MOTION was DEFEATED

**Voting for:** Councillors Meineke, Chant, Marks, Battista and Graham

**Voting against:** Councillors Houston, Clough, Smith, Dowell, Yarnall and Ekins

A FORESHADOWED MOTION was MOVED That Council consider funding this request from the sale of the Koala Child Care Centre (these funds are to be "quarantined") as part of the 2011/12 budget and operational plan process.

(Councillors Smith/Clough) (BP10/721)

296/11 **RESOLVED** that: Council consider funding this request from the sale of the Koala Child Care Centre (these funds are to be "quarantined") as part of the 2011/12 budget and operational plan process.

(Councillors Smith/Clough) (BP10/721)

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

**Voting against:** Councillor Meineke

#### 12.8 December 2010 Quarterly Budget Review Statement

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297/11 **RESOLVED** that :

1. Council adopt the December 2010 Quarterly Budget Review Statement for General, Water and Wastewater Funds.
2. Council does not apply Council policy 1.5.10 Reserves (Internally Restricted Assets) with respect to allocation of interest to general fund reserves held for the 2010/11 year.
3. Council recognise an accumulated deficit of \$19,700 as at 31 December 2010.
4. This report be forwarded to Council's Auditor for information.

(Councillors Chant/Marks) (BP11/2)

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

**Voting against:** Councillor Ekins

Reports

**12.1 Tender No. T2011-14 - Security Services**

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A MOTION WAS MOVED that:

1. Council accept the tender and award the contract for Tender T2011-14 Security Services to Alacorp Pty Ltd (trading as Summerland Security Services) 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.

(Councillors Chant/Smith) (BP11/21)

An AMENDMENT was MOVED that Council defer this matter until a report is received back from the Lismore Business Promotion Panel on the safety patrols

(Councillors Ekins)

The AMENDMENT LAPSED for want of a SECONDER

An AMENDMENT was MOVED that:

1. Council accept the tender and award the contract for Tender T2011-14 Security Services to Alacorp Pty Ltd (trading as Summerland Security Services) 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. A report be brought to council prior to the end of the probation period with an assessment by staff on the performance of the contractor

(Councillors Yarnall/Clough)

On submission to the Meeting the AMENDMENT was DEFEATED

**Voting for:** Councillors Clough, Yarnall and Ekins

**Voting against:** Councillors Houston, Meineke, Chant, Marks, Smith, Battista, Dowell and Graham

298/11

**RESOLVED** that:

1. Council accept the tender and award the contract for Tender T2011-14 Security Services to Alacorp Pty Ltd (trading as Summerland Security Services) 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.

(Councillors Chant/Smith) (BP11/21)

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

**Voting against:** Councillors Yarnall and Ekins

## **12.2 Lease for Cafe Adjacent to the Lismore Regional Gallery**

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299/11

**RESOLVED** 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 (amended schedule) 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.

(Councillors Meineke/Graham) (BP11/15)

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

**Voting against:** Nil

### **12.3 Energy Efficient Street Lighting**

---

A MOTION WAS MOVED that:

1. Council accept the proposal from Country Energy for replacement of street lighting throughout the Lismore City Council area with energy efficient street lighting.
2. The General Manager progress the matter and finalise discussions with Country Energy on implementing the proposal.
3. The Finance Manager deal with the cash flow issue as outlined in the report as part of the 2011/12 budget process.
4. Council direct all surpluses from the installation of energy efficient lighting to the revolving loan fund for climate change mitigation projects originally established under the Cities for Climate Protection program.

(Councillors Clough/Ekins) (BP11/13)

AN AMENDMENT WAS MOVED that:

1. Council accept the proposal from Country Energy for replacement of street lighting throughout the Lismore City Council area with energy efficient street lighting.
2. The General Manager progress the matter and finalise discussions with Country Energy on implementing the proposal.
3. The Finance Manager deal with the cash flow issue as outlined in the report as part of the 2011/12 budget process.
4. As part of the replacement program, Country Energy be requested to trial an area of LED lighting

(Councillors Yarnall/Graham) (BP11/13)

On Submission to the Meeting the AMENDMENT was APPROVED and became the MOTION

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

**Voting against:** Councillors Clough, Smith and Ekins

(Councillors Yarnall/Graham) (BP11/13)

300/11

**RESOLVED** that:

1. Council accept the proposal from Country Energy for replacement of street lighting throughout the Lismore City Council area with energy efficient street lighting.
2. The General Manager progress the matter and finalise discussions with Country Energy on implementing the proposal.
3. The Finance Manager deal with the cash flow issue as outlined in the report as part of the 2011/12 budget process.

- 4 As part of the replacement program, Country Energy be requested to trial an area of LED lighting

(Councillors Yarnall/Graham) (BP11/13)

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

**Voting against:** Councillor Clough

#### 12.5 December 2010 Quarterly Capital Works Program Update

301/11

**RESOLVED** that

1. The December quarter Capital Works progress report be received and noted.
2. Staff investigate the installation of shade trees in blisters as part of the upgrade of Conway Street stages 1 and 2

(Councillors Meineke/Houston) (BP11/10)

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

**Voting against:** Nil

#### 12.6 Delivery Plan Progress Report - December Quarter 2010

302/11

**RESOLVED** that report be received and noted.

(Councillors Smith/Marks) (BP11/6)

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

**Voting against:** Nil

#### 12.7 Integrated Planning and Reporting - Future Improvements

303/11

**RESOLVED** that: Council adopt the process contained in the report to improve Council implementation of the IP&R framework and satisfy the requirements of the DLG for a group one Council.

(Councillors Meineke/Smith) (BP11/4)

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

**Voting against:** Nil

**12.9 Information Services' Strategic Plan 2010 - 2012**

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304/11 **RESOLVED** that Council defer adoption of the Information Service Strategic Plan 2010-2012 until such time as Councillors are shown suitable progress relating to Council's website upgrade

(Councillors Smith/Yarnall) (BP10/737)

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

**Voting against:** Nil

**12.10 Proposed new road name - Development Application 5.2004.970.2**

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305/11 **RESOLVED** that :

1. Council approve public exhibition for a period of 28 days as per Roads Regulation 2008 of the proposed road name within the rural residential development known as Development Application 5.2004.970.2, being Tulsi Lane, Nimbin.
2. Any submission opposing the proposal be reported to Council prior to determination of the naming.
3. In the absence of any submissions the application be determined under delegated authority by the General Manager.

(Councillors Graham/Yarnall) (BP11/11)

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

**Voting against:** Nil

**12.11 Investments - December 2010 and January 2011**

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306/11 **RESOLVED** that the report be received and noted.

(Councillors Graham/Yarnall) (BP11/9)

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

**Voting against:** Nil

## Committee Recommendations

### 13.1 Traffic Advisory Committee Minutes 15 December 2010

307/11

**RESOLVED** that:

1. That the minutes be received and adopted and the recommendations contained therein be adopted.
2. That the Mayor table at the next committee meeting, traffic issues raised in the McLean Ridges traffic study relating to excessive speeds recorded on Cameron, Cowlong and Boatharbour Road, and request police make regular patrols

(Councillors Marks/Chant) (BP11/20)

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

**Voting against:** Nil

## Documents for Signing and Sealing

### 14.1 Documents for Signing and Sealing

308/11

**RESOLVED** that:

The documents listed below to be executed under the Common Seal of the Council:

**Licence for equipment on telecommunications tower – 16 Wyreema Avenue, Goonellabah (P4031)**

A Licence has been granted for a term of five years from 1 July 2008 in favour of State of New South Wales (Minister for Police) for the installation and maintenance of telecommunications equipment on the Council-owned tower erected on the subject property.

(Councillors Graham/Marks) (BP11/22)

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

**Voting against:** Nil

Financial Assistance – Section 356

**15.1 Financial Assistance – Section 356 Report**

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309/11

**RESOLVED** that:

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

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

Budget Approved: \$21,400      Spent to date: \$14,040.69

**Funky Moves Dance Studio** requesting Council discount the hire fees (\$4,563) for use of the Dance Studio during Term 4, 2010 because the air conditioning is not functional and the amenity of the space is reduced because of the hot weather.

Background

Council considered this request at the December 2010 meeting and resolved that it be deferred for further consideration. To assist Council in determining the request, the following information is provided:

Council has considered similar requests from this user for Terms 1, 2, 3 and 4 during 2010. The requests are due to the failure of the air conditioner in the Dance Studio making the amenity unsatisfactory for users which is not disputed.

In Term 1, Council approved a reduction in charges of 50%. For Terms 2 and 3, as heat was not considered a significant factor, no reductions in charges were recommended.

For Term 4, in the absence of any reduction guidelines, it is propose to base the reduction on a 50% reduction for days where the temperature exceeded 25 Degrees. Based on the information provided by City Hall Management, the reduction is calculated as:

Total Hire Fees for Term 4 - \$4,563 (9 weeks)  
Fee Reduction Basis - 50%  
Days Temperature More Than 25 Degrees - Approximately 50%  
Reduction Amount -  $\$4,563 \times 50\% \times 50\% = \$1,140.75$

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

**\$1,140.75**

**National Film and Sound Archive** requesting Council waive the hire fees (\$1,107) for use of the City Hall to present the 'Cooee Cabaret' to school children and the general public. The show is a fun, magical journey through the history of sound and songs in Australia from the earliest recordings of the indigenous language in the 1890's, well loved advertising jingles and radio broadcasts to popular contemporary music. An entry fee will not be charged.

**Recommendation:** In accordance with Clause 5 of the policy, a donation of 100% of the hire fees applies.

**\$1,107.00**

**Lismore Community College** requesting Council discount the hire fees (\$98 per hour) for the occasional use of the City Hall kitchen for cooking classes conducted by the College during 2011. An entry fee will be charged.

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

*In accordance with policy.*

**\$19.60**

**b) Council Contributions to Charitable Organisations**

**Waste Facility – Policy 5.6.1 (GL390.965.15)**

Budget:\$15,000      Spent to date:\$8,237.92

December 2010

Animal Right & Rescue \$21.82

Multitask \$64.03

Five Loaves \$224.31

Friends of the Koala \$60.00

Youth Connections North Coast Inc \$29.10

LifeLine \$303.45

Westpac Life Saver Helicopter \$49.73

**Total**  
**\$752.44**

**c) Development & Other Application Fees – Policy 1.4.7 (GL390.200.15)**

Budget Approved:\$11,100      Budget Available: \$1,157.50

**Northern Rivers Social Development Council** requesting Council waive all fees (\$530) associated with a development application for the installation of a grid connect solar power system at their 27 Cathcart Street offices (C110/36648:DA10/485).

**Recommendation:** In accordance with clause B of the policy, a donation of 30% of the development application fees applies.

**\$159.00**

**Northern Rivers Social Development Council** requesting Council waive all fees (\$673) associated with a development application for advertising sign and shade sail at the Lismore Community Garden at 50 Brewster Street, Lismore .

**Recommendation:** In accordance with clause A of the policy, a donation of 50% of the development application fees applies.

**\$336.50**

(Councillors Graham/Smith) (BP11/8)

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

**Voting against:** Nil

### Confidential Matters and Closed Meeting (Cr Simon Clough) - ef10/363

310/11

**RESOLVED** that Council now exclude the press, public and staff and meet in Closed Council to consider the following matters:

|                            |   |
|----------------------------|---|
| <b>Item</b>                | Mayoral Minute – Recruitment of the General Manager   |
| <b>Grounds for Closure</b> | Section 10A 2 (c)   |
| <b>Public Interest</b>     | Discussion of this matter in an open meeting would on balance be contrary to the public interest because it relates to information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. |

(Councillors Clough/Chant)

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

**Voting against:** Nil

(Councillors Clough/Chant)

## Resumption of Open Council

### Mayoral Minute- Recruitment of General Manager

When Council had resumed its formal sitting, the Mayor reported that Council, meeting in Closed Council to consider:

Recruitment of General Manager

And recommends that Council adopts the following recommendation:

That Council:

1. endorses the selection criteria and the recruitment process including interview arrangements in the Position Information package as circulated to Councillors.

2. Endorses the total remuneration package outlined in the confidential Mayoral Memo as circulated to Councillors.
3. forms a Recruitment Panel consisting of the Mayor and Councillors Clough, Battista, Graham and Yarnall to oversee the process leading to the recruitment of a new General Manager, to select and interview a short list of candidates for the role and to recommend to Council a preferred number of candidates for interview by the whole Council and selection of the new General Manager.

311/11 **RESOLVED**

That the Mayor report of Council meeting in closed Council be received and adopted.

(Councillors Dowell/Graham)

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

**Voting against:** Councillors Battista and Ekins

## Closure

This concluded the business and the meeting terminated at 9.50 pm

CONFIRMED this EIGHTH day of MARCH 2011 at which meeting the signature herein was subscribed.

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**MAYOR**