

Council

An Ordinary Meeting of Lismore City Council will be held at the Council Chambers on Tuesday, 13 October 2020 at 6.00pm

Members of Council are requested to attend.

Lismore City Council acknowledges the people of the Bundjalung nation, traditional custodians of the land on which we work.

Shelley Oldham
General Manager

2 October 2020



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Notice of Motions



Notice of Motion

Councillor Darlene Cook has given notice of intention to move:

That Council:

1. Agrees to send a letter to the Premier, Hon Gladys Berejiklian MP, Federal Member for Page, Hon Kevin Hogan MP and State Member for Lismore, Janelle Saffin MP which highlights the Council's disappointment that local government is not represented on the newly formed National Cabinet and seeks their assistance in requesting that First Ministers review the decision to exclude local government.
2. Seeks a meeting with our local Federal and State Members to discuss in more detail the importance of having local government representation on National Cabinet and the value of partnerships with councils in achieving the objectives of the National Cabinet and the national reform agenda.
3. Notes that the Australian Local Government Association, Local Government NSW and other state/territory local government associations will continue to advocate for local government representation on the National Cabinet and for local government's interests in all relevant forums.

Councillor Comment

Outcome Sought

On 13 March 2020 the Council of Australian Governments (COAG) met in Sydney to discuss a range of issues of national importance. At that meeting First Ministers (the Prime Minister, Premiers and Chief Ministers) agreed to establish a National Cabinet to meet at least weekly to address the country's response to COVID-19. Local government was not given a seat at the National Cabinet table.

The President of the Australian Local Government Association had been a member of COAG since it was convened by Prime Minister Keating in 1992. Local government was included because all parties recognizes Australia has three levels of government and the government with most impact on people's daily lives in terms of the provision of local services and infrastructure is local government.

Australians expect the three levels of government to be working together, and to see evidence of that. Including local government in National Cabinet would demonstrate a strong unity of purpose and a combined commitment to promote and implement National Cabinet decisions across the broadest implementation platform available to government.

Cost of Implementing

Nil

Funding Source

No funding source is required as writing of Ministerial correspondence is part of the existing function of Council.

Attachment/s

There are no attachments for this report.

TRIM Record No: BP20/822:EF19/25-02

Notice of Motion

Councillor Nancy Casson has given notice of intention to move:

That Council review the staff's decision for the continual denial of access of certain members of the community based upon historic alleged inappropriate behaviour.

Councillor Comment

Outcome Sought

To ensure that community members are not unfairly targeted by staff and inform Councillors of the procedures that have been engaged to deny certain members community access.

Cost of Implementing

Nil

Funding Source

Not Required

Staff Consulted

Nil

Staff Comment

For councillors information included are examples of correspondence sent to community members denying access and providing explanation.

Attachment/s

1. [Public forum & briefing access](#)

TRIM Record No: BP20/840:EF19/25-02

Subject: Public Forum

Your request to speak in public forum at tonight's Councillor Briefing is declined for the following reasons:

Council Meeting 11 February 2020

Notice of Motion – Homelessness

- You refuted previous speakers points.
- You attempted to advise the Councillors that something was a matter of disorder.
- You made an allegation that Councillor moving the NoM would be breaching the code.

Council Meeting 11 February 2020

Model Policy of Unreasonable Conduct

- You were rude to the chairperson

Council Meeting 12 May 2020

Notice of Motion - Investigation – Public Access

- You alleged a breach of meeting code of practice
- You made allegations of misconduct against councillors, staff generally.
- You continued to argue with the Chairperson (incl. attempt to raise point of order)

Lismore City Council

PO Box 23A, Lismore 2480 | www.lismore.nsw.gov.au

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Subject: Briefing access

Your request for access the Councillor briefing on 25 August 2020 is declined for the following reasons:

On 22 June 2020 you applied for access to the Councillor briefing held via Zoom online.

As part of that application you signed a declaration agreeing that you would not publish in any form any part of the briefing.

On 23 June 2020 you breached that agreement by publishing on social media a screenshot comprising personal images of persons attending the briefing.

In making briefings available online, Council is bound by the provisions of the Privacy and Personal Information Protection Act 1998.

Your failure to comply with your undertaking to Council is deemed to represent an unacceptable risk to Council in meeting its obligations under the Privacy and Personal Information Protection Act 1998, in particular, the principles in Division 1 of the Act.

On 28 July 2020 you applied for access to the Councillor briefing held via Zoom online which was declined.

As part of that application you signed a declaration agreeing that you would not publish in any form any part of the briefing.

On 29 July 2020 you dishonoured that declaration by publishing on social media screenshots from a presentation without Council permission.

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Notice of Motion

Councillor Nancy Casson has given notice of intention to move:

That Council staff remove from speaker application form the following;

I will conduct myself with due respect to the Council and agree to not disrupt the conduct of the meeting and treat all people with respect, courtesy, compassion and sensitivity and not insult, denigrate or make defamatory or personal reflects on or impute improper motives to the Council, staff or other members of the public. I also understand that should I say or present any material that is inappropriate, I may be subject to legal action. I also acknowledge that I have been informed to obtain my own legal advice about the appropriateness of the material that I intend to present at the abovementioned meeting and that failure to adhere to the above expectations may result in future requests to address Council being refused.

I will not record, copy, burn, export or distribute my representation at public access or any part of the meeting thereof.

I will not publish in any form (electronic or otherwise) my representation to public access or any part of the meeting without the Council's written approval.

Councillor Comment

Outcome Sought

That Community members can speak freely on their views of council matters at briefing

Cost of Implementing

Nil

Funding Source

Not Required

Staff Consulted

Nil

Staff Comment

To assist councillors to understand what occurs at other councils, attached are some extracts.

Attachment/s

1. [↓](#) Council access extracts

TRIM Record No: BP20/842:EF19/25-02

City of Sydney

Webcast

In accordance with the City of Sydney Code of Meeting Practice and the City of Sydney Local Planning Panel Operational Procedures council and committee meetings of the City of Sydney Council, meetings of the Central Sydney Planning Committee and meetings of the City of Sydney Local Planning Panel are audio visually recorded and webcast live on the City's website. A recording of each meeting is available following the meeting, and retained on the website for up to 12 months. Recordings of meetings may be disposed of in accordance with the State Records Act 1998. Any part of the meeting that is held in closed session is not recorded.

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Disclaimer

Webcast

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Video, images and audio contained in a live stream or recording must not be altered, reproduced or republished without the permission of the City.

Tweed Shire Council

19. When addressing the council, speakers at public forums must comply with all other relevant council codes, policies and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the council's code of conduct or making other potentially defamatory statements.
20. If the chairperson considers that a speaker has engaged in conduct of the type referred to in clause 4.19, the chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the chairperson's request, the chairperson may request the person to immediately stop speaking.
21. Clause 4.20 does not limit the ability of the chairperson to deal with disorderly conduct by speakers at public forums in accordance with the provisions of Part 15 of this code.
22. Where a speaker engages in conduct of the type referred to in clause 4.19, the general manager or their delegate may refuse further applications from that person to speak at public forums for a period that the general manager or their delegate considers appropriate.
23. Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of an address at a public forum. The council is to maintain a written record of all conflict of interest declarations made at public forums, including how the conflict of interest was managed by the councillor who made the declaration.

Tamworth Regional Council

Members of the public will not be permitted to use Public Forum to abuse, vilify, insult, threaten, intimidate or harass Councillors, Council staff or other members of the public. Conduct of this nature will be deemed to be an act of disorder and the person engaging in such behaviour will be ruled out of the order and may be expelled.

Clarence Valley Council

Declaration*

I understand that the meeting I intend to address is a public meeting and is being recorded. I will conduct myself with due respect to the Council and observe Council's Code of Meeting Practice by not disrupting the conduct of the meeting; treating all people with respect and sensitivity; not insult, denigrate, defame or personally reflect on or implicate improper motives to the Council, staff or other members of the public.

I also understand that should I say or present any information that is inappropriate I may be expelled from the meeting or subject to legal action.

Notice of Motion

Councillor Neil Marks has given notice of intention to move:

That:

1. Staff develop an Expression of Interest to go to the market to assess if there are any legitimate parties within the community that would be willing to take over the land on which the Lake Pool is located.
2. Staff develop a leasing or licensing framework that would enable any interested parties with appropriate background and experience in similar project delivery to apply for grants, organise community funding, make representations to Government and undertake works. This timeframe for the lease is to be no less than five years.
3. Any ongoing maintenance or operational costs for a facility, and that are proposed to revert to Council's ownership or care and control will only be considered for transfer to Council by resolution in response to a properly costed proposal that complies with relevant industry standards for the infrastructure proposed.
4. Inclusion be made in future budget funding upon request for DA's, permits or other council related fee support to assist with progressing any properly costed proposals.

Councillor Comment

Outcome Sought

Previous reports to Council have highlighted the following history of the Lake Pool:

Date	Action
8/11/2011	Council resolution in 3 parts with the following effect: <ul style="list-style-type: none"> • Lismore Lake Pool not to re-open for 2011/12 season • Reduced fees for LMB for 2011/12 • Staff develop a plan for redevelopment of the site to facilitate ongoing community recreation space and meeting place through CSP
23/2/2016	Councillor briefing on opportunity to sell the Lake Pool land.
8/3/2016	Notice of Motion and resolution to investigate cost of repair and re-opening of Lake Pool and report back to Council before selling, rezoning etc. Reported back to July 2016 meeting recommending no further action due to excessive capital and ongoing costs.
May 2016	Councillor briefing on costs and issues associated with re-opening Lake Pool
12/7/2016	Notice of Motion to commit Council to restoring the Lake Pool through CSP, no lifeguards, and all capital works from existing budgets or grants.
8/5/2017	Report to Council recommending Council include \$2.7M for reconstruction of the Lake Pool and \$160K for ongoing operations. Council resolved to not re-open pool, include \$450K in 2018/19 budget to demolish pool and LTFP provision of \$30K for ongoing maintenance.
8/3/2018	Notice of Motion to re-open the Lake Pool. Council resolves to defer any decision on demolition/refurbishment until Lismore Lake Inc. Committee can present a proposal for free community facility by August 2018.

Notice of Motion

June 2018	Decision to defer \$450K allocated funding for demolition of Lake Pool from 2018/19 budget.
11/9/2018	Report to Council advising no submission from Lismore Lake Inc. Committee. Recommending that if no submission received by Oct 2018, then matter will not be able to be considered for 2019/20 budget. Council resolves to form a Committee to report back within 6 months with findings.
12/3/2019	Findings of Committee to be reported back to Council by Notice of Motion. No outcomes or recommendations from Committee. Council resolved that: <ol style="list-style-type: none"> 1. <i>Councillors note the Minutes of the Lake Pool Committee meetings.</i> 2. <i>Council discontinues this Committee, effective immediately.</i>
12/3/2019	As a result of a report to Council in relation to the Lake Pool land, it was resolved unanimously by Council that: <ol style="list-style-type: none"> 1. <i>The General Manager be authorised to enter into a direct negotiation process for the sale of land identified in figure 1 of the report to Council.</i> 2. <i>The outcomes of the direct negotiation process and subsequent actions taken by the General Manager be reported back to Council to effect disposal of the land identified in figure 1 of the report to Council."</i>
10/3/2020	Council considered a further report regarding the sale of the Lake pool land and resolved that Council: <ol style="list-style-type: none"> 1. <i>reject the formal offer and terminate the unsolicited proposal process and initiate a process to progress rezoning the land for an appropriate land use and possible future use or sale.</i> 2. <i>review the proposal to demolish the improvements on the land. This modified proposal to be included for consideration in the 2020/21 operational plan for further consideration by Council.</i>

We now know that community members and politicians retain an active interest that has manifested in lobbying for funds but with no plan for what they want to achieve. Council's estimates for the Lake Pool have been questioned, but no alternatives put forward.

Council is routinely placed in the position of not having funds to deliver on unrealistic expectations and being criticised for not delivering on those expectations.

We all know Council's current financial position and the challenges of ongoing maintenance costs. Current LTFP and the reality that we will not within the next 10 years have the money to address the refurbishment of the Lake Pool, ongoing maintenance of the Lake Pool or operations of the Lake Pool. If there are others in the community that think the Lake Pool is still a going concern after 10 years of being closed, I am happy to give them a chance to prove they can make it work.

Cost of Implementing

There are staff costs associated with preparing documentation and reviewing submissions for a report back to Council. It is estimated these costs are in the order of \$2000

Funding Source

Propose that costs be covered from existing budget and staff allocations.

Attachment/s

There are no attachments for this report.

TRIM Record No: BP20/843:EF19/25-02

Matters Arising



Matters Arising

Subject	Lismore Health Precinct Heritage Review
TRIM Record No	BP20/715:EF17/98-02
Prepared by	Strategic Planner
Reason	To report to Council the outcomes of public consultation and Agency referrals. To obtain a Council resolution to adopt the Planning Proposal to implement the Lismore Health Precinct Heritage Review and make the LEP Amendment.
Strategic Theme	Our built environment
Strategy	Our land-use planning caters for all sectors of the community.
Action	Ensure a diverse range of land use and development opportunities are available.

Executive Summary

At its Ordinary meeting on 12 May 2020, Council resolved to support a Planning Proposal to include the following six (6) built and two (2) landscape heritage items (Street trees - Fig trees and Canary Island Palms) in Schedule 5, Part 1 – Environmental heritage of the Lismore Local Environmental Plan (LEP 2012) as detailed in Attachment 1 of this report. The street tree plantings are on Laurel Avenue, Lismore (Fig trees) and Uralba Street, Lismore (Canary Island Palms) as identified on Figure 2 of this report. The locations of the six (6) built heritage items are:

- 90 Diadem Street, Lismore (Lot 3 DP 446862)
- 62 Diadem Street, Lismore (Lot 1 DP 876256)
- 136 Laurel Avenue, Lismore (Lot 3 DP 901128)
- 42-42A Uralba Street, Lismore (Lot 1 & 2 DP 3634)
- 54 Uralba Street, Lismore (Lot 4 DP 501396)
- 47 Uralba Street, Lismore (Lot 402 DP 755718)

A request for a Gateway Determination was subsequently forwarded to the Department of Planning, Industry and Environment and on 18 June 2020 a Gateway Determination was issued with standard conditions. The Planning Proposal and relevant documents were placed on public exhibition from 30 July to 28 August 2020 during which time no public submissions were received. Input was also sought from relevant state agencies.

One (1) Agency submission was received from Heritage NSW which is summarised at Table 1 and provided at Attachment 2. No changes are proposed to the Planning Proposal post-exhibition as a result of this submission.

It is recommended that Council adopt the Planning Proposal to implement the Lismore Health Precinct Heritage Review as outlined in Attachment 1 and make the Local Environmental Plan Amendment under delegated authority.

Recommendation

That Council:

1. adopt the Planning Proposal to include six (6) built and two (2) landscape heritage items (Street trees - Fig trees and Canary Island Palms) in Schedule 5, Part 1 – Environmental heritage of the Lismore Local Environmental Plan (LEP 2012) as detailed in Attachment 1 of this report.

The locations of the six (6) built items are:

- 90 Diadem Street, Lismore (Lot 3 DP 446862)
- 62 Diadem Street, Lismore (Lot 1 DP 876256)
- 136 Laurel Avenue, Lismore (Lot 3 DP 901128)
- 42-42A Uralba Street, Lismore (Lot 1 & 2 DP 3634)
- 54 Uralba Street, Lismore (Lot 4 DP 501396)
- 47 Uralba Street, Lismore (Lot 402 DP 755718); and

2. make the draft Local Environmental Plan in accordance with the Department of Planning, industry and Environment's written authorisation to exercise delegation.

Background

On 12 July 2016, when Council resolved to adopt the Health Precinct Planning Proposal, part of the resolution included a request that Council's Heritage Adviser undertake a review of the Heritage Study in Uralba Street and in the remainder of the hospital precinct area in the short term. This part of the Council resolution was made in response to a public submission received that suggested Council retain several significant heritage buildings in Uralba Street that were identified in the previous Lismore Heritage Study (1995).

In accordance with this resolution, on 30 January 2017 Council commissioned a consultant to prepare the Lismore Health Precinct Heritage Review ('the Heritage Review'). The scope of works was to review all heritage items (including buildings, works, places, relics, trees, objects or archaeological sites) within the Lismore hospital Precinct including items that were documented in the Lismore Heritage Study 1995 and items that were omitted from the Lismore Heritage Study 1995.

The scope of this Review was limited to European heritage with a review of Aboriginal cultural heritage comprising an extensive search of AIHMS (the Aboriginal Heritage Information Management System). The fieldwork conducted involved viewing properties from the street and appraising public locations, which meant that the interiors and private landscaped areas of properties have not been assessed as part of this Review.

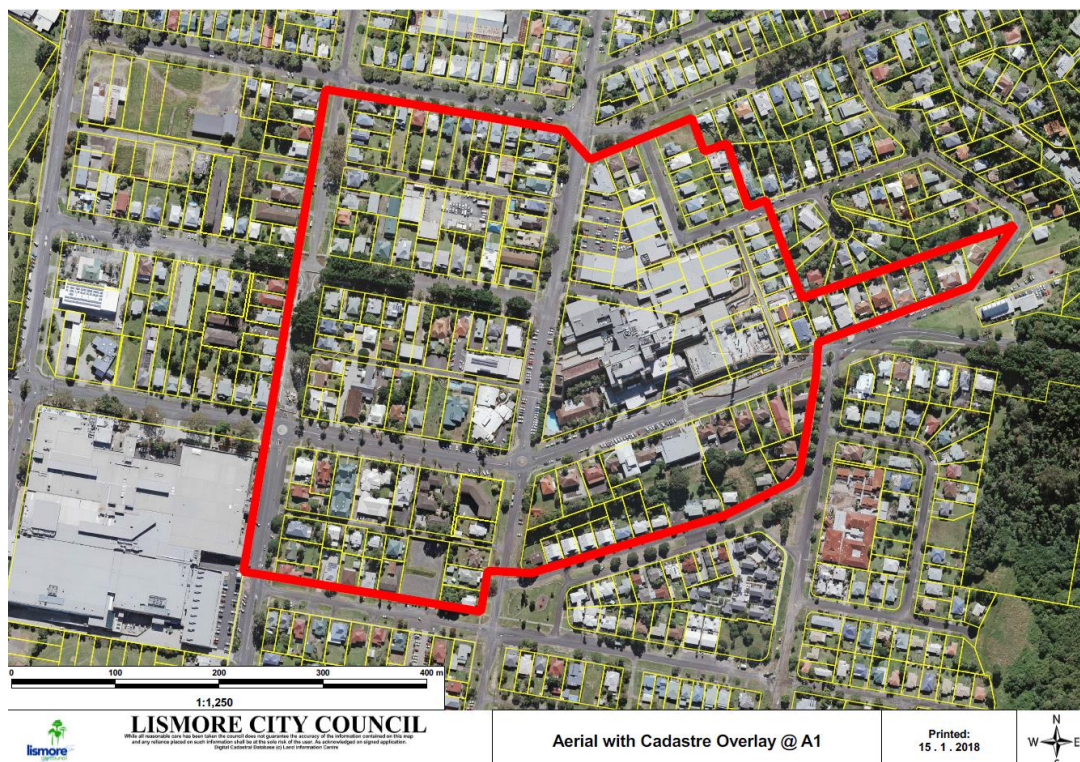


Figure 1: The study area of the Heritage Review

Findings of Lismore Health Precinct Heritage Review

The Heritage Review appraised and researched 31 items that were identified for further research and evaluation against the NSW Heritage Manual for Assessing Heritage Significance. Following that assessment, a total of nine (9) items, including seven (7) potential built heritage items and two (2) potential landscape heritage items (street trees) were *'deemed to be of high local historic significance and would benefit from additional statutory protection under the Lismore LEP 2012 and Heritage Act 1997'*.

The Review found that these nine (9) items had a high degree of local historic significance through an assessment against the NSW Heritage Manual criterion and that each item meets criterion A (Historical Significance), C (Aesthetic Significance) and G (Thematic Representation). The assessment of heritage significance for each item is contained in the Review document which was provided to Council at the 12 May 2020 Ordinary meeting.

The Review presented four (4) heritage management options and recommended that Option 2 be implemented, which sought the heritage listing of nine (9) items.

Landowner consultation

On 29 May 2018, staff briefed Councillors on four (4) potential options available to implement the findings of the Heritage Review. Staff were requested to consult affected landowners in the Health Precinct prior to a report on any LEP Amendment being presented to Council. To this end, an extensive consultation process commenced in February / March 2019 whereby all landowners in the Health Precinct area were sent a letter and fact sheet and were asked to complete a survey to nominate their favoured option. During this time, Council received five (5) written submissions and 38 surveys, the results of which were analysed and reported to Council on 12 May 2020. Staff also held a drop-in session on 2 March 2019 that was attended by seven (7) landowners.

As a result of feedback received in public submissions and a further staff review of relevant planning issues, one property at 129 Orion Street, Lismore was excluded from Option 2 which resulted in a recommendation for six (6) built and two (2) landscape items being supported for heritage listing.

At its meeting on 12 May 2020, Council resolved to support Option 2 which recommended that six (6) built and two (2) landscape items be included in Schedule 5, Part 1 – Environmental heritage of the Lismore Local Environmental Plan (LEP 2012). These items are identified in Figure 2.



Figure 2: Option 2 - Heritage items with Local Heritage Significance

Gateway determination and agency submission

On 18 June 2020, the Department of Planning, Industry and Environment issued a Gateway Determination which conditioned that some minor amendments be made to the mapping in the Planning Proposal prior to public exhibition. In accordance with the Gateway Determination, the Planning Proposal and relevant documentation was placed on public exhibition from 30 July 2020 to 28 August 2020 during which time one Agency submission was received from Heritage NSW. This submission is summarised below in Table 1 and attached to this report at Attachment 2.

Table 1: Summary of Government Agency submission

Agency comments	Staff response
<p>Heritage NSW</p> <ul style="list-style-type: none"> The Planning Proposal and supporting heritage review has been reviewed and the proposed items for inclusion in Schedule 5 of the Lismore LEP 2012 meet the criteria for listing at a Local level. Council should be satisfied that prior to finalisation of the planning proposal, all necessary due diligence, assessments and notifications have been undertaken in identifying and listing new heritage items. 	<ul style="list-style-type: none"> The comment is noted. Council can be satisfied that the Lismore Health Precinct Heritage Review included a rigorous assessment of potential heritage items in the study area in accordance with relevant NSW and Commonwealth legislation, the Burra Charter, and the Lismore LEP 2012 and DCP.

LEP Maps

The Planning Proposal involves amendment of the LEP Heritage Map Sheet [HER_005AB] to apply a heritage listing to six (6) built items and two (2) landscape items, which is shown as Figure 4.



Figure 3: Existing Heritage Map – Lismore Health Precinct Heritage Review

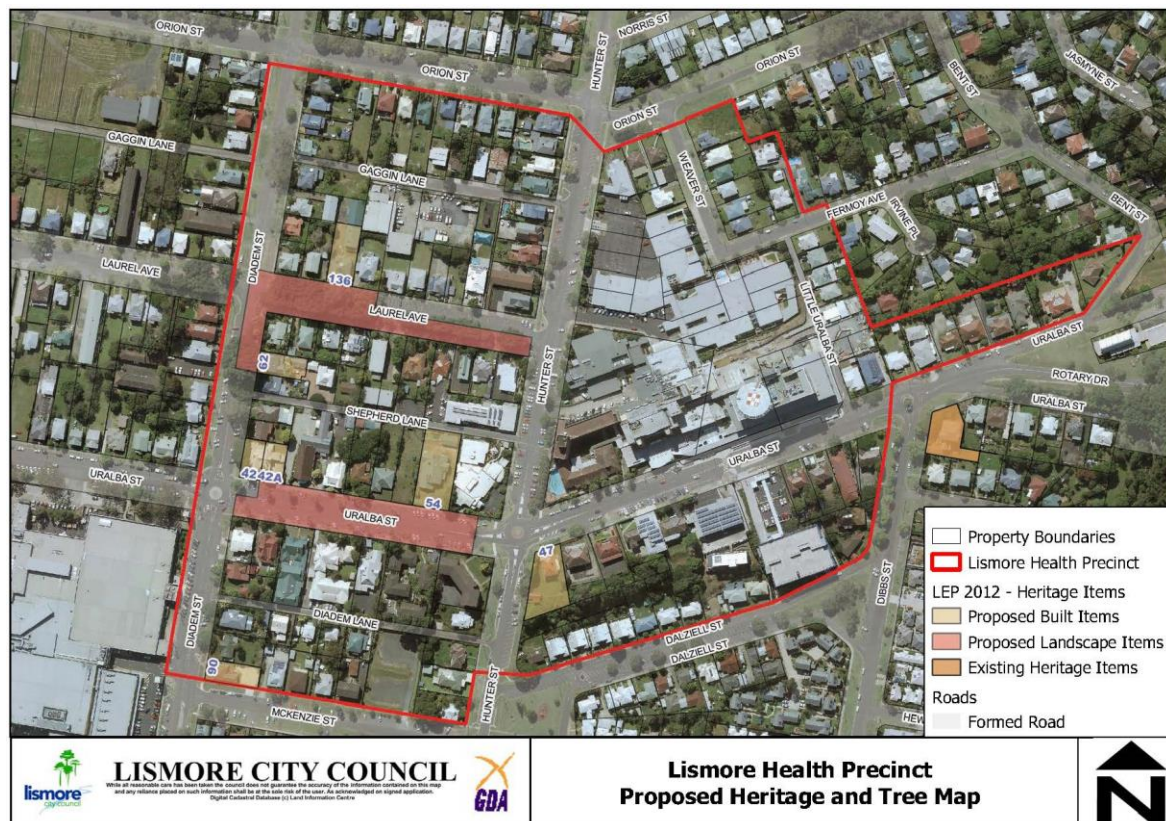


Figure 4: Proposed Heritage Map – Lismore Health Precinct Heritage Review

LEP written instrument

It is proposed to amend Schedule 5 Environmental Heritage of the Lismore LEP 2012 by including the following built and landscape items in Part 1 – Environmental heritage as listed in Table 2 below.

Table 2 is structured in accordance with the requirements of the Environmental Planning and Assessment Act 1979 Standard Instrument. The Item number reflects the continuance of the existing Heritage Items Schedule in Lismore LEP 2012.

Table 2: Items for inclusion in Schedule 5, Part 1 - Environmental Heritage of Lismore LEP 2012

Suburb	Item Name	Address	Property description	Significance	Item no.
Lismore	House	90 Diadem St	Lot 3 DP 446862	Local	I105
Lismore	House	62 Diadem St	Lot 1 DP 876256	Local	I106
Lismore	House	136 Laurel Ave	Lot 3 DP 901128	Local	I107
Lismore	House (“Brunswick House”)	42 Uralba St	Lot 1 & 2 DP 3634	Local	I108
Lismore	House	54 Uralba St	Lot 4 DP 501396	Local	I109
Lismore	House	47 Uralba St	Lot 402 DP 755718	Local	I110
Lismore	Street Trees (Fig Trees)	Diadem and Laurel St		Local	I111
Lismore	Street Trees (Canary Island Palms)	Uralba Street		Local	I112

Development Control Plan

The report presented to the 12 May 2020 Council meeting recommended that changes to the Lismore Health Precinct section in Chapter 1 of the Lismore DCP - Residential Development be considered and reviewed by Council staff following the public exhibition of this Planning Proposal.

If Council adopts the Planning Proposal as recommended in this report, the LEP and DCP controls that will apply to the six (6) built items and two (2) landscape items are:

- the provisions of LEP Clause 5.10 Heritage Conservation;
- the relevant provisions of DCP Chapter 12 Heritage Conservation (12.4 Heritage Principles and 12.5 Design Guidelines); and
- the relevant urban design provisions of DCP Chapter 1 specific to medium density in the Lismore Health Precinct.

These existing provisions have been reviewed and are considered adequate to protect and conserve the proposed new built and landscape heritage items.

In particular, the need for performance criteria to provide additional controls on *development within proximity of heritage items* is not considered necessary given that sub-clause (5)(c) of LEP Clause 5.10 requires an assessment of the need for a heritage management document (ie. a heritage impact statement, or a heritage conservation management plan) before granting consent to any development on land that is within the vicinity of a heritage item. In relation to development of land in the Lismore Health precinct for medium density housing, this clause ensures that any proposed new development (potentially medium density) adjacent to or in the vicinity of a heritage item will be assessed with regard to impacts on surrounding built and landscape heritage characteristics.

Moreover, performance criteria for *adaptive reuse of heritage building* is also not considered necessary because sub-clause (2)(a)(i) of LEP Clause 5.10 Heritage conservation requires development consent for any alterations to the exterior of any heritage item and sub clause (2) (b) of LEP Clause 5.10 specifies that consent is required for making structural changes to the interior of a heritage item. If a heritage conservation management plan is required under sub-clause (6) for any adaptive reuse proposal, appropriate consent conditions can be imposed for any conservation works to the heritage item.

Comments

Finance

Not required.

Other staff comments

Not applicable.

Public consultation

An extensive process of community consultation with affected landowners of the Health Precinct was undertaken in addition to the statutory public exhibition requirements of the Gateway Determination.

Conclusion

The Planning Proposal seeks to heritage list six (6) built and two (2) landscape items in Schedule 5, Part 1 – Environmental heritage of the Lismore Local Environmental Plan (LEP 2012). The Planning Proposal is considered to represent a prudent balance between the protecting and conserving built and landscape items with identified high local significance while enabling medium density development in the established Lismore Health precinct.

Matters Arising

Staff have undertaken an extensive process of community consultation with affected landowners within the Health Precinct area and have considered the views submitted to Council in the form of public and Agency submissions, returned landowner surveys, and opinions expressed at a drop-in session in preparing the Planning Proposal.

It is recommended that Council adopt the Planning Proposal at Attachment 1 and exercise its delegation to make the LEP Amendment.

Attachment/s

1. [⇒](#) Attachment 1 - Post exhibition Planning Proposal (Over 7 pages)
2. [↓](#) Attachment 2 - Agency submission



Our ref: DOC20/567611

Ms Shelley Oldham
General Manager
Lismore City Council
PO Box 23A
LISMORE NSW 2480

Attention: Ms Sally Slater, Strategic Planner
[REDACTED]

Planning Proposal – Lismore Health Precinct Heritage Review

Dear Ms Oldham

Thank you for the opportunity to comment on the planning proposal to implement the findings of the Lismore Health Precinct Heritage Review. Please find our comments below for your consideration.

As I understand, that the proposal intends to amend the Heritage Schedule and associated Heritage Maps under *Lismore Local Environmental Plan 2012* (the LEP), to identify:

- 6 new built heritage items:
 - 'House', 90 Diadem Street, Lismore (I105)
 - 'House', 62 Diadem Street, Lismore (I106)
 - 'House', 136 Laurel Avenue, Lismore (I107)
 - 'House ("Brunswick House")', 42 Uralba Street, Lismore (I108)
 - 'House', 54 Uralba Street, Lismore (I109)
 - 'House', 47 Uralba Street, Lismore (I110)
- 2 new landscape heritage items (street trees):
 - 'Street Trees (Fig Trees)', Diadem and Laurel Streets, Lismore (I111)
 - 'Street Trees (Canary Island Palms)', Uralba Street, Lismore (I112)

We have reviewed the planning proposal and supporting heritage review and note that the assessment indicated that the proposed items meet the criteria for listing at a Local level. We encourage the identification and listing of new heritage items, provided that all necessary due diligence, assessments and notifications have been undertaken. Prior to finalisation of the planning proposal, Council should be satisfied that this is the case.

If you have any questions regarding this matter please contact James Sellwood, Senior Heritage Programs Officer, Statewide Programs at Heritage NSW, Department of Premier and Cabinet by phone on [REDACTED] or via email at [REDACTED]

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rochelle Johnston', written over a white background.

Rochelle Johnston
Manager, Statewide Programs
Heritage NSW
4 August 2020

Level 6, 10 Valentine Ave Parramatta NSW 2150 ■ Locked Bag 5020 Parramatta NSW 2124
P: 02 9873 8500 ■ E: heritagemailbox@environment.nsw.gov.au

Reports of the General Manager



Report

Subject	Section 4.55(2) Modification to extend the life of the quarry approved by DA5.1992.523.3
TRIM Record No	BP20/686:DA92/523-06
Prepared by	Development Assessment Officer (Planning)
Reason	For Council determination
Strategic Theme	Our built environment
Strategy	Our land-use planning caters for all sectors of the community.
Action	Protect resources, including prime agricultural land and extractive industries, for future use by the community.

Executive Summary

Council received an application to modify Development Consent 1992/523 for an existing quarry located at 72 River Bank Road, Monaltrie on 15 July 2020. The application seeks to enable the continued operation of the River Bank Road quarry for another sixteen (16) years from 12 May 2020. The application does not increase the 'footprint' or the existing depth of the extraction area, or the annual rate of extraction approved by DA 1992/523. The proponents have had a pre-lodgement meeting.

A total of 32 public submissions were received in response to the notification of this proposed modification, 9 in support and 23 objecting as well as 1 requesting their name be withdrawn from a submission. The public submissions refer (amongst other matters) to impacts on the road network, the extension of operations for a further sixteen (16) years and the planning/amenity impacts on individual properties. The assessment and consideration of this proposed modification is guided by the test for "substantially the same development" as required by s4.55(2) of the *Environmental Planning & Assessment Act 1979*.

The submissions also refer to compliance history and associated implications. These issues are discussed in the report.

Council officers have assessed the application and recommend approval for a maximum of sixteen (16) years. The nature of the proposed modification is considered 'substantially the same development'.

The report addresses the concerns raised in submissions and recommends the imposition of appropriate conditions of consent to mitigate any unsatisfactory or perceived impacts.

Recommendation

That the application for modification of Development Consent DA92/523 for extension of the life of the quarry at 72 River Bank Road, Monaltrie, be approved for a maximum of sixteen (16) years subject to the draft conditions of consent at **Attachment 1** to this report.

Background

A summary of the relevant background and history of the quarry development of this property is set out below:

Lismore City Council

Meeting held 13 October 2020 - Section 4.55(2) Modification to extend the life of the quarry approved by DA5.1992.523.3

- Council approved Development Application No 92/523 on 12 May 1993 for extensions to an existing hard rock quarry subject to conditions. In particular, the conditions limited the operation of the quarry to 25 years from the date of consent (Condition 2 – consent expires in 2020) and limited the annual extraction rate to 40,500 tonnes per annum (Condition 5). The DA was submitted and assessed as “designated development” in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* (EP&A Act) that included an Environmental Impact Statement (EIS).
- The report to Council at its meeting of 6 April 1993 included submissions about the traffic impact on the road network and amenity. The matter was again considered by Council at its meeting on 20 April 1993, with additional information provided on noise attenuation measures, where it was resolved to approve DA92/523 subject to conditions.
- Further amendments were approved by Council at its meeting of 1 March 1994. The amendments related to clarification of matters and modified Conditions 2, 3, 4, 7, 10, 16, 24, 26, 31, 33, 34, and 38.
- Further amendments were approved under delegated authority on 7 May 1998 relating to hours of operation (Condition No/s 11, 12 and 13). In addition, approval was granted for amendment of Condition 24 regarding construction requirements for the access road to be sealed with a 3m wide surface within two years of operation and a pavement suitable for the gravel haulage vehicles (previous requirement of Condition No 24 was for the access road to be bitumen sealed after three years of operation).
- The consent modification approved on 13 May 2005 amended conditions relating to Section 94 levies and relocation of access driveway.
- A further amendment of Development Consent 92/523 was granted on 28 July 2006 to relocate the access driveway off River Bank Road and subsequent amendments of Condition No 1 and Condition No 39, Condition No/s 40, 41, 42, 43 and 44 were added to the consent in relation to the road works required by Condition 39.
- Correspondence from Council to Mr Santin on 11 September 2013, advised of several outstanding incomplete conditions of development consent.
- On 17 December 2014 Council conducted a pre-lodgement meeting with the quarry owner, Mr Mick Santin and his consultant Mr Gary Peacock (Outline Planning Consultants Pty Ltd) to discuss a proposed Section 96 modification of DA92/523 to modify the consent to increase the extraction, processing and transport of material from 40,500 tonnes per annum to a maximum production of 79,500 tonnes per annum. The applicant also sought an extension to the life of the quarry and a modification to the finished profile of the quarry to allow access to the additional resource. The applicant anticipated a full extraction up to an additional 300,000 tonnes of quarry material.
- A further s96(2) Modification of Development Consent 92/523 Application was lodged on 1 October 2015 that proposed to increase the extraction, processing and transport off-site of the volume of material from 40,500 tonnes per annum to 79,500 tonnes per annum. The applicant also sought an extension to the life of the quarry for twenty (20) years and a modification to the finished profile of the quarry to allow access to the additional resource. The application was reported to Council with a recommendation for refusal based on the increase in annual extraction proposed from 40,500 tonnes per annum to 79,500 tonnes per annum, and not considered to be “substantially the same” development. The application was subsequently withdrawn by the applicant.

- A pre-lodgement meeting was held with the quarry owner Mr Mick Santin and his consultant Mr Malcolm Scott on 2 April 2019 regarding the proposed modification of consent to extend the life of the quarry for an additional twenty-five (25) years.
- The s4.55(2) Modification of Development Consent 92/523 Application was then lodged on 8 October 2019 proposing to extend the life of the quarry for a further twenty-five (25) years. The application was reported to Council on 14 April 2020 with a recommendation for approval. The application was refused by Council for the following reasons:
 1. The proponent has not demonstrated that the proposed extension of the life of the quarry will not have an adverse effect on the local koala population, road network, amenity of the area; and
 2. That the current and previous quarry owner / operator have failed to comply with a number of the conditions of the original DA approval, and subsequent amendments, over the past 25 years of the quarry life;
 3. This application is not substantially the same as the original DA.
- A pre-lodgement meeting was held with the quarry owner Mr Mick Santin and his consultant Mr Malcolm Scott on 2 June 2020 regarding the proposed modification of consent to extend the life of the quarry for an additional sixteen (16) years. The current application for s4.55(2) modification of DA92/523-05 was lodged with Council on 15 July 2020.

Formal public exhibition commenced on 29 July 2020 and the exhibition period closed on 26 August 2020 (28-day exhibition period). Letters to adjoining property owners were sent on 21 July 2020 which provided for an extended period for submissions to be lodged.

Description of Proposal

Following the Council April 14, 2020 refusal, Santin Quarry Products (SQP) are now seeking the consent of Council to enable the continued operation of the River Bank Road quarry for another sixteen (16) years from 12 May 2020.

At an annual rate of extraction 11,100m³ (29,970T) the quarry life is estimated to be approximately sixteen (16) years (based on the approved extraction area).

The quarry operations consent expired on 12 May 2020 in accordance with relevant conditions of DA consent 1992/523. The holistic quarry consent will expire nine months after that date, being 12 February 2021.

The application does not propose to change any of the approved key operational characteristics of the quarry including (but not limited to) the following:

- The footprint of the extraction area; or
- The approved annual extraction rate; or
- The general operations of the quarry.

The applicant does not intend to exceed an extraction rate of 29,970T per annum. Should extraction increase to greater than 30,000T per annum, an Environment Protection Licence (EPL) is required to be obtained from and issued by the NSW Environment Protection Authority (EPA).

Whilst, Condition 5 of the consent caps extraction at 15,000m³ in situ / 40,500 tonnes crushed annually, reference is made in Condition 6 to the requirement for an EPL to be obtained from NSW EPA prior to exceeding the extraction rate of 30,000t per annum at any time.

The resource that remains in the approved extraction area is approximately 569,737T. The Environmental Impact Statement prepared for DA1992/523 estimated that the resource within 7.5ha of the land was approximately 2,000,000T.

The substantive resource continues to the east and southeast. The *Lismore Strategic Planning Statement 2020* states that quarries are an important resource that support development and that Council will review and map the full extent of the resource in the local government area.

THEME 4 – SUSTAINABLE ENVIRONMENT *continued*

COUNCIL WILL INVESTIGATE HOW IT CAN ASSIST LANDOWNERS TO INCREASE THE USE OF THESE PRACTICES

Planning Priority 12

Protect and improve productive agricultural land and other natural resources.

Rationale

The protection of productive agricultural land and other natural resources such as quarries is an ongoing land use planning priority for Council and the community.

Agricultural land in the LGA has been mapped to identify land that should be protected for its ability to cater for a range of agricultural uses that may be important now, or in the future, thereby keeping options open for new crops and farming methods. Council will continue to direct urban growth away from state and regionally significant farmland to help protect the resource base and update planning controls to ensure non-farming uses do not generate land use conflict.

There is increasing interest in using regenerative agriculture

practices, which aim to re-establish the natural function, fertility and resilience of agricultural landscapes to ensure the land harvests and retains more water and uses available water more efficiently. Council will investigate how it can assist landowners to increase the use of these practices.

Quarries are also an important resource that support development. Council will review and map the full extent of the resource in the LGA.

Strategic Outcomes

- The availability & viability of rural land for ongoing agricultural use is not compromised by inappropriate or incompatible development.
- Upon cessation of quarrying, buildings, machinery & associated infrastructure are removed, and land rehabilitated to either a natural state or a state suitable for alternate uses.
- Increased adoption of regenerative agriculture practices.



ACTIONS

PRIORITIES: Short term – 2 years, Medium term – 2-5 years, Long term – 5 years on

NUMBER	ACTIONS	TIMING
A12.1	Update the Lismore LEP and DCP to ensure development controls are appropriate to protect state and regionally significant farmland and other natural resources, including local quarries, from incompatible land uses and development, including those that generate land use conflict.	SHORT TERM
A12.2	Identify and map the extent of the quarry resource to quantify supply, avoid land use conflict and ensure appropriate rehabilitation is undertaken.	MEDIUM TERM

Plate 1: Extract from *Lismore Strategic Planning Statement 2020*

The application is supported by numerous specialist reports and additional information, which signifies an assessment of the quarry's environmental performance in the context of the conditions of consent, but also acknowledging that many conditions of consent, historically have not been properly resolved by previous quarry operators or SQP.

The application documents provide a further assessment of the issues raised by Council in its refusal of DA 5.1992.523.3. The applicant cannot seek an s8.2 review of the application as the DA originally approved was a designated development, with the second 2020 application being an attempt by the applicant to avoid litigation.

Proposed Changes to Conditions of Consent

The s4.55(2) application seeks consent of Lismore City Council (LCC) for the modification of:

- Conditions No 2 and No 3 of the consent for DA1992/523 to enable the continued operation of the approved quarry for another 16 years from **12 May 2020**. In accordance with the current approvals the quarry may operate until **12 May 2020**. The application seeks to extend the period of consent to **12 May 2036**.
- the description of the land to which the DA relates, as it appears the internal access road was in part originally approved in Lot 3 DP 701527 and an open storage area has partly encroached onto that land, also owned by Mr Santin.

- Conditions No 17, No 24, No 31 and No 35 of the consent, relating to fencing of the quarry, the sealing of the access road and product haulage is also sought as part of this application, thus seeking to delete Conditions No. 17 & No. 31 which require the quarry to be fenced. The quarry land has been fenced to the satisfaction of The Division of Resources and Energy (now part of the NSW Department of Planning Investment and Environment).

The fence is a 5-strand barbed wire construction. The quarry is defined by either; large rock, temporary earthen stockpiles and/or bunds. The land immediately adjoining the quarry has been continually used for cattle grazing.

Fencing the immediate quarry perimeter would make pasture and weed management immediately adjoining the quarry difficult and require the provision of 2 gates or cattle grids.

- Condition No 24 to delete the requirement that the whole of the access road be bitumen sealed. The internal quarry haulage and access road is part bitumen sealed and gravel. The road is a 1-way loop into and out of the quarry.

The main bitumen section of the road is approximately 5m wide and extends approximately 250m into the quarry land from the intersection with River Bank Rd. The road is then a mix of gravel and bitumen to the quarry floor. Gravel sections are approx. 4.2 - 6m wide.

The Division of Resources and Energy (now part of the NSW Department of Planning Investment and Environment) have advised Mr Santin (in writing) it is satisfied with the existing internal access road.

The quarry access road is in the originally approved position and is sealed where near adjoining dwellings.

- Condition No. 35 to reflect contemporary methods of haulage and weight of loads. The proposed change involves an increase of 20 loaded truck movements per day to a maximum of 46 loaded truck movements per day. This is on the basis that the average loaded truck movements remain at a maximum of 15/day over any one week.

Apart from the nominated intensifications, the operation of the quarry remains the same, notably the proposed modification **does not seek to increase the scale of annual extraction (40,500 tonnes)**.

Council staff have recommended further changes to the Conditions of Development Consent (as set out in Attachment 1) to ensure that the conditions are contemporised to reflect current operating standards.

Description of Locality

The subject land is known as 72 River Bank Road, Wyrallah, approximately 6km to the south of the urban centre of Lismore. The site is located on elevated land above the Wilsons River floodplain.

The quarry is situated on part of Lot 4 DP 701527, having an area of 16.31ha. The quarry operator now also owns neighbouring Lot 3 DP 701527 (to the west) and Lot 4 DP 730425 (to the east), which provides a buffer area around the quarry site.

The area contains the quarry pit, includes quarry crushing and processing plant and equipment, as well as storage and other ancillary facilities associated with the operation of the quarry.

The land immediately adjoining the quarry is used for grazing of beef cattle and a certified organic chicken farm. The land in the locality also comprises rural lifestyle parcels on River Bank Road and smaller parcels of land in the Monaltrie village area to the north.

Unfortunately, the past approval of "concessional lot" subdivisions has resulted in land use conflict between a preferred land use (extractive industry / quarry) in the RU1 Primary Production zone and the encroaching residential development.

Lismore City Council

Meeting held 13 October 2020 - Section 4.55(2) Modification to extend the life of the quarry approved by DA5.1992.523.3

Locality Map

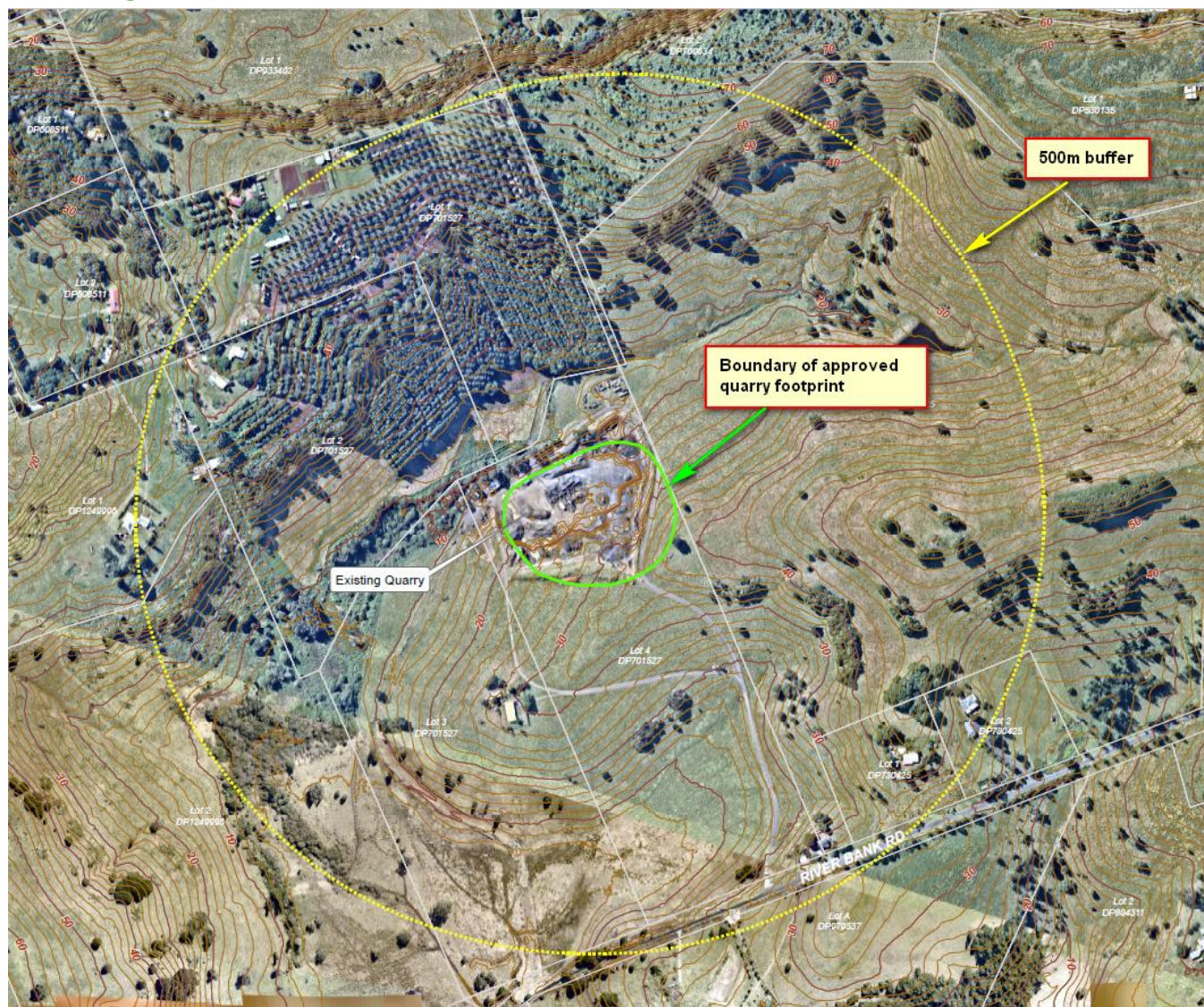


Plate 2: Locality Map

Overview of Existing Quarry Operations

The existing Development Consent 92/523 allows the extraction, processing and transport off-site of a volume equivalent to approximately 40,500 tonnes per annum of quarry product.

The quarry operations comprise the following:

- Land stripping;
- Blasting;
- Extracting / raw feed winning;
- Crushing and screening;
- Loading;
- Delivery.

Full details and photographs of each of the stages of quarry operations are contained within Section 1.4 of the Planning Report (usually referred to as Statement of Environmental Effects however, for the purpose of this matter has been called “Planning Report” when referenced through this Council report).

Site Plan

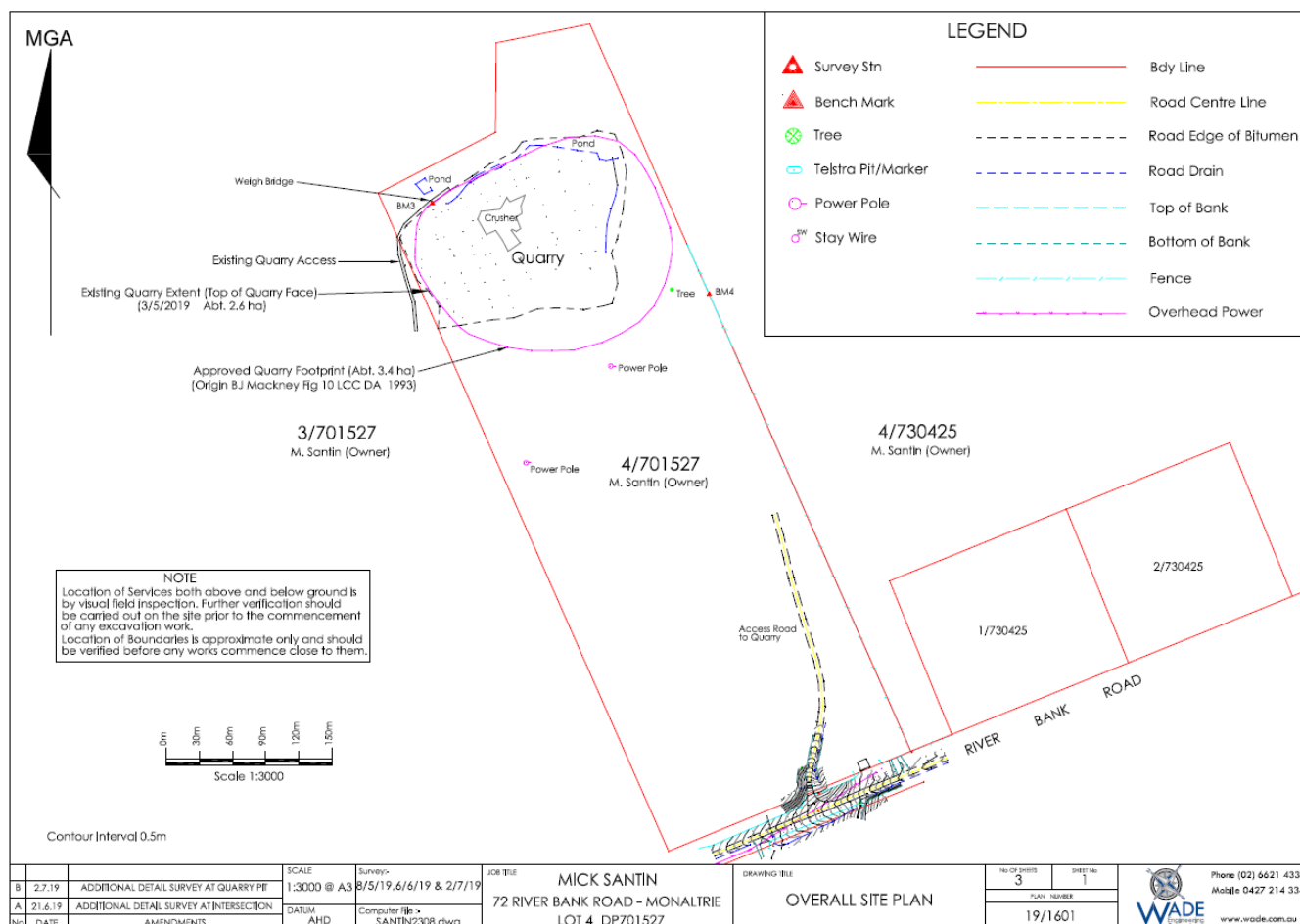


Plate 3: Site Survey Plan

Statutory Controls

Section 4.55(2) Environmental Planning & Assessment Act 1979
 SEPP No. 33 – Hazardous and Offensive Development
 SEPP (Koala Habitat Protection) 2019
 SEPP (Infrastructure) 2007
 SEPP (Mining Petroleum Production and Extractive Industries) 2007
 Lismore LEP 2012

- Zoning – RU1 Primary Production
- Item of Heritage – No
- In vicinity of Heritage Item – No
- Conservation Area – No

S94 Contributions Plan (now s7.11)
 Environmental Planning & Assessment Act 1979
 Designated Development
 Integrated Development

Policy Controls

Lismore Development Control Plan
 s.94 Contributions Plan 2004
 Council Policy 5.17.8 Sustainability, Viability and Amenity of Rural and Urban Land
 Lismore City Council Local Strategic Planning Statement

Lismore City Council

Meeting held 13 October 2020 - Section 4.55(2) Modification to extend the life of the quarry approved by DA5.1992.523.3

Notification/ Submissions

The application was notified to adjoining and surrounding property owners and advertised in the Local Matters publication in accordance with the provisions of the *LCC Community Consultation Plan* Appendix 1 for the notification and advertising of development applications, and the provisions of the *Environmental Planning & Assessment Act, 1979*.

This also included notification to all previous submitters to the original development application at their last known address. A copy of all submission documents can be accessed via Council's online DA tracking facility or Councillors Hub.

As a result of the notification and advertising, 32 public submissions were received, 9 in support and 23 objecting as well as 1 requesting their name be withdrawn from a submission.

Attachment 2 to this report includes a table which provides a detailed summary of all the submissions and assessment comments in response to each submission.

Key Issues raised by Submissions and Councillor Briefing

The key issues raised in submissions and at the Councillor Briefing on Tuesday 15 September 2020, not addressed elsewhere in this report, are discussed below.

Expiry of Development Consent 1992/523 (as modified)

- 1 Conditional Consent No 92/523 was granted for Extension to an existing hard rock quarry on 12 May 1993 to Mr Valentino Turcato.
- 2 The Consent was subsequently modified as detailed above in "Background".
- 3 The Consent was "physically commenced" in accordance with the relevant provisions of the *EP & A Act 1979* (as in force at the time) and **has not lapsed**.
- 4 Nevertheless, Condition No 2 of the said Consent stated as follows:

"This consent shall permit quarrying for not more than twenty-five (25) years from the date of the commencement of the quarry. This is to be the date upon which the first rock won from the trial blast conducted 8-10 June 1992 is removed from the site or two (2) years from the date of issue of the S92 Notice of Determination".
- 5 Council cannot be certain of the date that the rock, previously blasted in 1992 (which was prior to the issue of Consent on 12 May 1993), was removed from the site.
- 6 In the absence of accurate evidence of the date of rock removal (following issue of Consent) Council has taken a conservative view that relies on the date of issue of the S92 Notice of Determination, being 12 May 1993.
- 7 As stated above the date of commencement of the quarry is therefore two (2) years from the date of issue of S92 Notice of Determination, being 12 May 1995.
- 8 Twenty-five (25) years from 12 May 1995, **permits quarrying until 12 May 2020**.
- 9 Condition No 3 of the said Consent stated as follows:

"The consent shall lapse the date 25 years and nine months from the date of the commencement at which time extraction shall have ceased and the site restored in accordance with the detailed Plan of Management"

- 10 Following 12 May 2020, the applicant has nine months for extraction to cease and the site restored in accordance with the Plan of Management, thus the consent **would expire on 12 February 2021**. It is noted that, in accordance with the Plan of Management, restoration involves the removal of stockpiles of material from the quarry floor (among other things), prior to being ripped and spread with overburden and topsoil. That process is currently being undertaken.
- 11 While the word “lapse” has been referenced in Condition No 3, it should more correctly state “expire” as the provisions of the *EP & A Act 1979*, as referenced above at Point 3, the consent cannot lapse once it has “physically commenced”. In having said that, the restoration should be completed by 12 February 2021.

As demonstrated in points 1 to 10 above, DA1992/523 remains an “active” consent that can lawfully be modified in accordance with the provisions of s4.55(2) of the *EP & A Act 1979*. The above points are supported by previously legal advices to Council, that are provided under separate cover on the Councillor Hub.

Substantially the same development

Section 4.55(2) of *EP & A Act 1979* provides for the following:

“(2) Other modifications A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

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

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

(c) it has notified the application in accordance with—

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

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

Subsection (2) requires any such modification to be “substantially the same” development. This proposal is an application under s4.55(2), which is more general in nature and which does not contain any wording that implies “minor” or “minimal” environmental impact as specified in s4.55(1) and s4.55(1A). Nevertheless, the technical reports in support on this modification application have demonstrated that there will be no additional / consequential environmental impacts as a result of the operations of the existing quarry.

The consent authority has a statutory obligation to consider this application under s.4.55(2) of the *EP&A Act 1979*, as well as the matters referred to in s.4.15C(1). The application will also be considered in terms of local planning controls and with the provisions of relevant local and state planning instruments.

The “substantially the same” test requires the consent authority to undertake both a qualitative and quantitative analysis of the consent before the proposed modification and after the modification. Relevantly, the accepted and applied phrasing of the test was described by Bignold J in *Moto Projects (No 2) Pty Ltd v North Sydney Council [1999] NSWLEC 280* as follows (at [56]):

“The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some type of sterile vacuum.

Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted).”

The following table provides an assessment of the application based on the test as referenced above:

Table 1: “Substantially the Same” Test

DA Component	Current Approval	Proposed Modification
Area approved for Quarrying	As per the original Environmental Impact Statement prepared by Brian J Mackney & Associates dated August 1992 (original <i>Mackney EIS</i> report)	No change. Approved quarry footprint to be maintained in this s4.55 application.
Total quarry resource	1.0 million tonnes in original <i>Mackney EIS</i> report	No change. The extension of life of the quarry is sought in order to extract the approved 1.0 million tonnes quarry resource.
Life of quarry	To 2020	Change to 2036 to account for the volume of quarry resource remaining.
Maximum quarry production	40,500 tonnes per annum approved	No change. Maximum extraction per annum is 40,500 tonnes per annum.
Hours of operation of quarry	Hours of operation as per Council consent	No change.
Quarry truck numbers	As per original <i>Mackney EIS</i> report	No change to requirement to not exceed an average of 15/day of loaded truck movements. Change requested from 20 loaded truck movements per day (not to exceed an average of 15/day) to 46 loaded truck movements per day on only 29 occasions per year.
Quarry Operations & Layout	Described in original <i>Mackney EIS</i> report	Minor changes only , to enable winning of the approved 1 million tonnes quarry resource and as recommended in technical reports supporting the modification application, to manage any impacts from quarry operations.
Quarry Process	Described in original <i>Mackney EIS</i> report	No change.
Stormwater, soil erosion, dust management	Described in original <i>Mackney EIS</i> report	No change apart from improvements to management practices as recommended in technical reports supporting the modification application.
Rehabilitation	Described in original	No change.

DA Component	Current Approval	Proposed Modification
	<i>Mackney EIS report</i>	
Blasting	Blasting to continue	No change over the life of the quarry given that the same volume of quarry resource is to be won (1 million tonnes) over the life of the quarry.
Land Description	Quarry approval granted for Lot 4 DP 701527, 72 River Bank Road	Minor change to include Lot 3 DP 701527 as part of the consent for the internal access road (in part originally approved on Lot 3 DP 701527) and a storage area that has in part encroached onto that land. Fourth consent amendment changed the route of the internal access road however, LCC did not modify the consent to reflect this. It is not proposed to quarry into this land as it is outside the area approved to be quarried by DA 1992/523, and as shown on the approved plans.

A copy of the *Environmental Impact Statement* prepared by Brian J Mackney & Associates dated August 1992 is available on Councillors Hub.

Compliance history

It is acknowledged that there has been a history of non-compliance with conditions of development consent historically by all operators of the quarry, and this has been raised as a major issue of concern by submitters. It is noted that the current quarry operator purchased the property in 2011.

In response to complaints made, particularly following the lodgement of the initial s4.55(2) application earlier this year, Council has conducted several inspections. Although potential issues have been identified with truck movements onto the property before and after approved operating hours, and the notification of crushing activities, the wording of the historic consent provides avenues for the owner to contest any resulting compliance action. For instance, Condition 11 of DA Consent 1992/523 states:

“General quarrying operations shall be restricted within the hours, 7.30am to 4.30pm, Monday to Saturday.”

The issue with the wording of this condition is that it does not necessarily preclude the entrance of trucks onto the property before the approved hours. Council is unable to obtain enough evidence that trucks were loaded on site before or after hours.

In addition to other tests conducted on behalf of the owner, Council conducted formal water testing in the watercourse adjacent to the quarry and the results did not indicate any pollution concerns. The complainant has been advised of the outcome. Council is also monitoring the site during crushing activities, following the installation of sprinklers and noise amelioration measures.

Additionally, it is advised as follows:

1. The quarry owner and his consultant have been co-operative to suggestions to modify the quarry operation improve the impact of the quarry operations on property owners in the area including:
 - Additional record keeping of truck movements onto and off the premises;
 - Providing written requests and advice to all customers requesting they are not to attend the quarry before or after operating hours;

- Agreeing to the installation of a traffic counter on the quarry driveway to confirm truck movements;
- Installation of a sprinkler and noise reduction measures on the crusher;
- Notification of property owners in the close proximity of the quarry, prior to crushing activities.

There is no requirement in the current DA consent to provide an annual audit of quarry operations. Condition 4 required a detailed Plan of Management to be submitted to Council within one year from the date of commencement, and then upgraded every two (2) years or other period as determined by Council. From a search of Council's records this condition was not complied with by any operator of the quarry, and no Plan of Management located.

This matter became apparent when a quarry audit for compliance with conditions of consent was undertaken by Council's Compliance Officer, as part of an LGA wide inspection of approved quarries. A Draft Plan of Management was subsequently lodged with the s96(2) modification application lodged in 2015.

The following condition of development consent (included in Attachment 1 – Draft Conditions of Development Consent to this report) states the following:

- 4 **Annual audits** for at least two (2) years and thereafter every three (3) years (subject to satisfactory performance or as determined by Council), shall be carried out of quarry operations consistent with the approved *Operational Plan of Management*, inclusive of the environmental, noise, soil and water and rehabilitation management plans and consent conditions.

The audit shall be undertaken by an independent, suitably qualified expert and must identify areas of non-compliance and management responses to the same.

An annual report of audit findings **shall be submitted to Council prior to January 31st of each year, following the commencement of this consent.**

Where non-compliance is identified the applicant shall identify amelioration works to be implemented and shall undertake **monthly monitoring** until the amelioration measures have been completed and compliance demonstrated.

Reason: *To ensure compliance with the development consent.*

Detailed compliance history chronology will be provided on the Councillors Hub in relation to the issues raised in this regard.

Council acknowledges that work in this area requires an update to processes, particularly, to ensure that regular audits are lodged. Conditions of consent will require that audits be undertaken by an independent, suitably qualified expert and must identify areas of non-compliance and management responses to the same.

Council is confident that this process will ensure the quarry operations are undertaken in compliance with conditions of development consent.

Quarry Rehabilitation / Plan of Management

The *Draft Quarry Plan of Management* (Version 4 – 1 July 2020) and *Draft Plan of Quarry Rehabilitation* (version 5 – 12 June 2020) are available to view on DA Tracking on Council's website and on Councillors Hub.

Details of progress with quarry rehabilitation is outlined at Point 10 "Expiry of Development Consent 1992/523 (as modified)" above.

Inclusion of Lot 3 DP 701527 in the Description of the Development

The application requests the inclusion of Lot 3 DP 701527 to form part of the land referenced in the development consent document, as it appears the internal access road was in part originally approved in Lot 3 DP 701527 and an open storage area has partly encroached onto that land, also owned by Mr Santin.

As referenced also at Table 1 the inclusion of Lot 3 DP 701527 in the description of the development is considered reasonable for the following reasons:

- The Fourth consent amendment changed the route of the internal access road however, Lismore City Council did not modify the consent to reflect this situation;
- The amendment to the description of the land is for the purpose of formalising the existing situation;
- It is not proposed to quarry into this land as it is outside the area approved to be quarried by DA 1992/523, and as shown on the approved plans (and supporting Site Survey Plan in Plate 3 above in this report);
- This will correct an anomaly in the report description to incorporate the parcel of land being used for the purpose of internal access road and open storage area;
- There will be no change to the approved quarry operations, or footprint of quarrying extraction area, as a result of this amendment to the approval documents.

Should this proposal not be supported, there are other options available to the quarry operator to resolve this issue.

Internal Referrals

Environmental Health

This application is primarily seeking a 16-year extension to the life of the quarry.

As part of the previous assessment a site inspection was undertaken on the 12 December 2019 and a further Councillor Briefing site inspection was undertaken on the 24 March 2020 (attended by applicant, consultant, Councillors and staff). No further site inspection is considered necessary for the assessment of this application.

The NSW Environment Protection Authority (NSW EPA) (through the online concurrence and referral service) have advised that Council is the 'appropriate regulatory authority' for this application. NSW EPA have not provided any further comment.

Through the assessment of the previous request for modification application, NSW EPA provided comment to the effect that the Authority raised no objection to the modification application. However, through those communications, NSW EPA notes that the quarry does not hold an Environment Protection Licence (EPL) and therefore Council is the appropriate regulatory authority. This reinforces the feedback for this current application.

It is noted that should the scale of extraction be expected to exceed 30,000 tonnes of material in any 12-month period, the operator is required to have an approved EPL. The EPA has noted the historic extraction has exceeded 30,000 tonnes in 1996, 2006, 2007, 2014 and 2017. The EPA has issued a formal warning to the quarry operator for failure to hold an EPL when lawfully required.

Council through the pre-lodgement process has highlighted the EPL requirements to the quarry operator. The Statement of Environmental Effects has noted that an EPL would be obtained if required in response to extraction rates.

As the current consent enables an extraction rate that would require an EPL issued by NSW EPA, it is considered that the current consent be contemporised, so that conditions are consistent with any future potential Environment Protection Licence (EPL). Previous discussions have been held with representatives of NSW EPA regarding achieving this outcome for the proposed quarry activity.

On issuing an EPL for the activity, the subject of this application, will place NSW EPA as the environmental regulatory authority for the quarry.

CONTAMINATED LAND

The quarry is an existing approved land use. As the proposal is seeking an extension of time to enable the continuation of the activity under the current approval, no further technical reporting is required on this matter.

NOISE IMPACTS

The Noise Impact Assessment (NIA) dated 30 June 2020, prepared by INGEN Consulting has been submitted to support the application for modification. The technical report has been prepared in accordance with the NSW Environment Protection Authority *'Noise Policy for Industry'* October 2017 (NPI).

Operational conditions of consent nominated the following noise standard for the quarrying:

“LA10 noise levels emitted from the quarry and all plant and equipment shall not exceed the background noise levels by more than 5 dB(A) when measured at any affected residence.”

The NPI recognises that many existing industrial sources were designed/approved for higher noise emission levels than the project noise trigger levels outlined in the policy.

Applications for extensions to existing premises often provide the opportunity to redress issues that relate to the whole site. Where noise emissions from the site exceed the project noise trigger levels (NPI) the regulatory authorities and the noise source manager will determine achievable noise limits for the site, taking into account matters that must be considered in accordance with the relevant legislation process, including negotiations with proponents and discussions with stakeholders as required.

The technical reporting for this application has:

- Established the relevant project noise trigger levels in accordance with the NPI (benchmark - **40/35/35** dB(A)). The quarry activity is a daytime only operation.
- Measured and/or predicted noise levels produced by the quarry activity at sensitive receptors.
- Compared the measured/predicted noise levels and where the trigger noise levels are exceeded, assessed feasible and reasonable mitigation measures.
- Recommended undertaking compliance monitoring and/or complaint management response to ensure ongoing achievement of noise goals.
- Recommended implementation of the following compliance monitoring regime for the first 12 months:
 - Issue of a compliance report to Lismore City Council on a quarterly basis
 - The compliance report to include an updated complaint register
 - Per quarter, at least 6-hours' worth of attended testing at sensitive receivers during days of typical quarry operations
 - Attended test results to be included in quarterly report and describe operations, weather conditions and emitted quarry noise levels at the receivers.

The technical report has therefore determined the project trigger noise level to contemporary standards and identified feasible and reasonable mitigation measures considered necessary to ensure operational noise impacts are effectively mitigated to ensure compliance.

The technical report concludes:

Operational noise emissions –

“From the analyses carried out in this report we conclude that satisfactory noise emissions can be achieved, in the sense that modelled noise impact will not exceed the Project Target Noise Levels plus negligible residual noise impacts if the operations comply with the following:

- *Continue to cover noise plant with insulation material.*
- *Construct a 6-metre high berm directly to the West and North of the current crushing and screening operations.*
- *Rocks to be carefully placed in the hopper, rather than being dropped in from a height.*
- *Crushing and screening operations to be similar to what was done during the attended testing day of the 12th of March 2020.*
- *Ensure adequate maintenance and repair of plant and equipment”*

Road noise emissions –

“The road noise impact of the development has also been considered. The noise increase due to quarry traffic when compared to background traffic is less than 2 dB and it is concluded that the road noise impact of the quarry complies with the requirements of the NSW Road Noise Policy.”

Vibration -

“Blasting records provided demonstrate that blasting impacts have been compliant in recent years. Therefore, no further analysis work is warranted, provided best-practise blasting methods continue to be applied and monitored.”

In recognition that technical reporting has:

- presented noise modelled outcomes that will require on-going site management;
- demonstrated that existing noise emission levels without attenuation and management exceed the adopted project trigger noise level;

it is recommended that draft conditions of consent for the matter of noise management be constructed clearly articulating presented noise management strategies.



Figure 3 | Unattended test locations



Figure 11 | Proposed noise berm in quarry pit

Plate 4: Extracts from the Noise Impact Assessment report

ON-SITE SEWAGE MANAGEMENT

Existing chemical closet facilities provided.

ENVIRONMENTAL IMPACTS (Amenity)

A *Soil and Water Management Plan* (August 2019) and *Crystalline Silica Risk – Basalt Extraction – Review of Literature & Guidance Document* (June 2020) report have been prepared to assess potential impacts likely to arise from site-based works and recommendation of appropriate mitigation measures to address:

- nuisance dust
- the displacement of sediment and soil off the site
- water quality of receiving environments
- control and treat surface runoff
- divert clean waters, and
- achieve compliance

The silica risk report concludes:

“On the basis that exposure to respirable crystalline silica is considered a workplace hazard and not an environmental risk, and taking into consideration the distance from the quarry area to neighbouring properties, the risk of exposure to respirable crystalline silica for persons at these properties is considered to be low.”

The application is supported by very recent independent Council water quality sampling. The results conclude that at the time of sampling the quarry activity was not impacting upon the water quality of receiving waters.

Conditions have been prepared to ensure performance measures presented within the technical reporting for soil and water management are clearly incorporated into any subsequent consent notice.

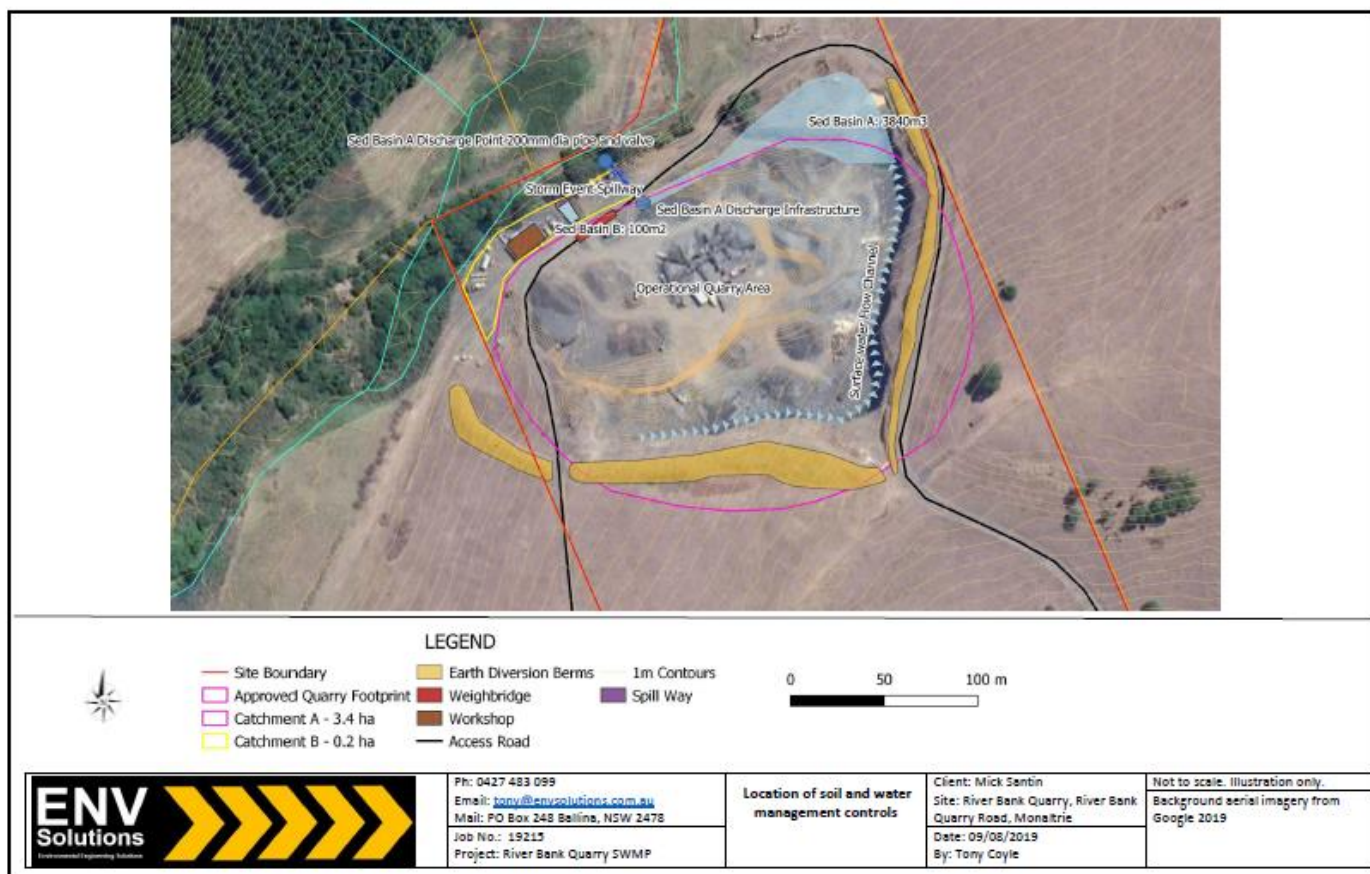


Plate 5: Extract from Soil and Water Management Plan

BUFFERS

There are identified non-associated residential receivers within the primary and secondary buffers as described within Chapter 11 – Buffers Lismore Development Control Plan. Potential for land use conflict is offensive noise emissions (including vibration) and other amenity impacts such as nuisance dust.

It is recognised that the application before Council is for the modification of an existing consent to enable the on-going use/operation of the quarry for a further 16 years. The principle behind the DCP is to protect industries from encroaching development within the rural landscape. In this case encroaching development is existing and any further applications would be subject to merit assessment. The quarry has general control and management of lands within the primary buffer except for lands to the north. Considering this land use pattern, it is considered appropriate for the quarry to present a position that demonstrates that the on-going operation of the site will not generate an unacceptable land use conflict.

See noise comments for proposed response to potential land use conflict.

Engineering/Traffic/Stormwater Drainage

VEHICULAR ACCESS/SIGHT DISTANCE

The vehicular access has been previously conditioned to be upgraded to a Basic Right Turn (BAR) and Basic Left Turn (BAL). The works for this will be in accordance with the requirements of a Section 138 approval that has been granted (73.2019.72.1) as shown below at Plate 6. The BAR and BAL intersection will be satisfactory for any future traffic volumes produced by the quarry.

The existing internal access road is in good condition and given the rural location and quarry's distance to adjoining properties, the request for the access road to remain gravel and not be bitumen sealed for the full length is supported. This is also supported by previous correspondence from NSW Department of Planning & Investment (as submitted with a previous modification application).



Plate 6: S138 approved intersection works

Internal Road

As the quarry is located within a rural area and that the DPIE equivalent are satisfied with the current road surface, there are no objections to Condition 24 being modified to remove the requirement of bitumen sealing.

Lismore City Council

Meeting held 13 October 2020 - Section 4.55(2) Modification to extend the life of the quarry approved by DA5.1992.523.3

SIGHT DISTANCE (Visibility)

The proposed upgrade of the intersection into the quarry (Section 138 73.2019.72.1) will ensure there is adequate sight distance to the entrance of the quarry from the East and West of River Bank Road.

TRAFFIC IMPACT**Traffic Generation**

The following information has been provided by the applicant's Traffic Impact Assessment (TIA):

Yearly Extraction Rate	40,500 Tonnes	30,000 Tonnes
Days of Operation (Excludes Sunday and Public Holidays)	304 Days	304 Days
Daily Haulage Rate	133 Tonnes	99 Tonnes
Average Tonnage per Load	15.5 (Based on Current Dockets)	15.5 (Based on Current Dockets)
Average Truck Loads per Day	8.6	6.4
Average Daily Truck Trips	17.2	12.8
Average Daily Staff Vehicle Trips	10	10
Total Average Daily Vehicle Trips	27	23

With the average vehicle trips calculated above along with the existing traffic volumes, River Bank Road has the capacity to cater for this development.

Regarding the request to modify Condition No 35, the table above shows that the average daily truck loads are below the 15 per day, as specified in the current condition of consent and no modification is sought for this aspect. However, the applicant is requesting that the peak loads be increased to 46/day compared to the original 20/day for the following reasons:

- Changes to the industry since 1993 including Pacific Highway upgrades and increased funding for regional roads.
- Increased peak volumes reduces the number of overall days that peak volumes can be applied and therefore reducing traffic impact through periods of the year.

The proposed modification from 20 to 46 loads per day (being 92 truck movements) is supported to allow the quarry to become contemporary and meet demands of the current marketplace. It is stressed that increasing the peak loads per day **does not** increase the total number of loads per year or tonnage the quarry is approved to extract. It is considered that the total impact of the quarry on the road network will not be altered from that originally assessed in 1993. Further to this request, the applicant has proposed to limit the peak truck volumes per year to 29 occurrences. This is supported and will be conditioned as such.

Road Safety

The Traffic Impact Assessment (TIA) has reviewed Council's accident history and provides the following comments:

- No registered crashes on River Bank Road since 2014
- No registered crashes at the intersection of River Bank Road and Wyrallah Road since 2014
- The nearest crash (to the north of the intersection) was associated with the curve in the road and not the intersection.

A review of the historical accidents data (prior to 2014) also reveals the same pattern as stated above with no accidents occurring along the frontage of the site or involving trucks at the intersection of River Bank Road and Wyrallah Road.

To further ensure safety, the TIA has suggested that the works required by Section 138 approval 73.2019.72.1 be completed within two years from the date of this modification. This request is supported to **only extend the period for completion of works for 12 months.**

It is considered that the quarry operator has had adequate time to complete these works previously, and a 12-month period is reasonable. This requirement will be incorporated into the recommended conditions of consent.

The TIA has demonstrated through an on-site assessment along with SIDRA analysis that the intersection of River Bank Road and Wyrallah Road has the appropriate requirements to allow this quarry to continue operation. The on-site assessment has also determined the quarry entrance intersection has the appropriate sight distance requirements.

Wyrallah Road/River Bank Road Intersection

When the original consent was granted to the proposed quarry at this location, the intersection was deemed to be satisfactory to cater for material that would be leaving the quarry. The TIA has demonstrated that the intersection has the capacity to cater for this quarry without any upgrade required.

As pointed out by NSW Roads & Maritime Services (RMS) (see comments below at External Referrals) the intersection of Wyrallah Road and River Bank Road is problematic when looking at the warrants for turning treatments in accordance with Austroads. Any increase in turning volumes will require the intersection to be upgraded to a BAR/BAL. This becomes an issue for the proposed modification of this development consent, as whilst the average the turning movements are not being increased, during the peak times the turning movements are increasing.

The TIA has shown through an on-site assessment along with SIDRA analysis that the intersection of River Bank Road and Wyrallah Road has the appropriate capacity to allow this quarry to continue without the need for an upgrade. The TIA and SIDRA analysis also demonstrates that the intersection has capacity to cater for a peak demand of 46 truck movements on any one day (maximum of 29 annual occurrences), although Austroads warrants would require an upgrade to cater for the proposed peak loads.

Council's Development Engineer supports the results of the TIA and SIDRA analysis on the basis that additional advanced warning signage (Truck Turning) be installed to assist with maintaining safety during the peak load days. This view is supported by Council's data that shows no traffic accidents have occurred at this intersection involving a truck, as well as the fact that the annual extraction rate from the quarry is not increasing.

PARKING MANOEUVRING

There is adequate space on site for vehicles to maneuver and exit in a forward direction.

STORMWATER (Quantity)

The existing ponds on site used to capture stormwater along with the plan of management are adequate to ensure that stormwater is discharged without causing adverse impacts to adjoining properties.

FLOODING (bulk earthworks, overland flow)

The modification will not adversely affect the flooding characteristics of the property.

PEER REVIEW OF TRAFFIC IMPACT ASSESSMENT BY GEOLINK / RESPONSE FROM INGEN

One of the submissions forwarded to Council attached a Peer Review of the Traffic Impact Assessment as submitted with the application. The Peer Review as commissioned by Mr Hovelroud was prepared by Michelle Erwin, Senior Civil Engineer with GeoLINK. The Peer Review document is attached to this report as **Attachment 3.**

Lismore City Council

Meeting held 13 October 2020 - Section 4.55(2) Modification to extend the life of the quarry approved by DA5.1992.523.3

In response to the review report prepared by GeoLINK for Mr Hovelroud, a response was provided by Michiel Kamphorst, Consultant Engineer with Ingen Consulting. The response included justification for the contents and methodologies outlined in the Traffic Impact Assessment and is attached to this report as **Attachment 4**.

Ecology

Koala Habitat Protection SEPP 2019 (Lismore CKPOM)

Koala habitat Assessment report submitted

Proposal consistent with the Lismore CKPoM assessment criteria

1. No Trees proposed to be removed, no net loss of Koala food trees/ habitat. An additional 100 koala food trees on the Subject Site was recommended.
2. No removing or altering of any habitat linkages. The current risk to Koala movement would not be altered by the Proposal and safety would improve by the proposed restriction on truck speed.

Biodiversity Conservation Act 2016 (BC Act 2016)

- Land not identified on Biodiversity Values Map
- No clearing of native vegetation proposed
- 5 Part Test concluded no significant impact to the Koala (as shown in the koala assessment report)

Environment Protection and Biodiversity Conservation Act

The Proposal is unlikely to have a significant impact on the Koala. Therefore, a referral to the Commonwealth Minister for the Environment for a Controlled Action determination is not required.

The optimal traffic / koala impact mitigation measure is to have Koala food trees and corridors away from roads- as described in proposed mitigation measure.

It is recommended that a legally enforceable and security bonded conditioned landscape management plan will allow scope to plant koala trees well away from River bank road. This measure would include clump plantings and vegetated sound and dust buffer mounds containing koala food trees and other indigenous vegetation associated with this vegetation community.

It is concluded that the extension of the life of the quarry operation does not pose an increased threat to the koala and koala habitat. Conditioned and implemented recommended mitigation measures provide an opportunity to grow secure koala habitat away from traffic hotspots and increase connectivity in the landscape.

FLORA AND FAUNA / THREATENED SPECIES ASSESSMENT

Review of Desktop Assessment

Description of the study area

The description of the study area was included and includes details of the types, locations and conditions of native vegetation and koala habitat in the study area. The study area, subject site and relevant habitat features were displayed on a map. On the whole, the description of the study area was adequate.

List of threatened species, populations or ecological communities, or their habitats known or likely to occur

A desktop assessment limited to the study of the Koala, populations or their habitats known or likely to occur within the locality was conducted. The spatial extent of the study was adequate.

The desktop assessment identified koalas and koala habitat was predicted to occur onsite and near the subject site.

The document does not consider other threatened flora and fauna species, populations or ecological communities, or their habitats likely to occur in the locality of the subject site, nor does it assess the likelihood of these species occurring on the subject site.

Review of Flora and Fauna Field Survey Methods

Review of Flora Field Survey Methods

The details of the flora field survey methods employed was sufficient.

The choice of flora field survey methods (inspect all trees on the property) and the extent of the survey was justified.

The constraints to the flora field survey methods were noted.

Given size of the subject site, the flora field survey methods, on the whole, appear to be reasonable and appropriate.

Review of Fauna (koala) Field Survey Methods

The details of the fauna field survey methods employed was sufficient.

The choice of fauna field survey methods and the extent of the survey was justified.

The constraints to the fauna field survey methods were not noted.

Given size of the subject site, the fauna field survey methods, on the whole, appear to be reasonable and appropriate.

Review of Flora and Fauna Assessment Findings

Flora Assessment Findings

A targeted flora survey found a total of 11 Forest Red Gum (Preferred Koala Food Trees) on or near the subject site.

The vegetation present on the site was found to be largely agricultural grazing land with some small patches of regrowth dry rainforest and scattered camphor laurel paddock trees

No threatened native plant species were found to occur on the subject site.

Fauna Assessment Findings

The fauna survey found evidence of the Koala persisting on the site. The targeted survey for koala found evidence (scats and scratches) in Forest Red Gums in the Northern boundary of the property.

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

An assessment of the likelihood of threatened flora and fauna species occurring or likely to occur within the study area was not conducted. The assessment was considered to be adequate given that there is no proposal for clearing vegetation and a koala habitat assessment has been submitted with the DA.

For each threatened species, population of ecological community, the assessment included an evaluation of the:

- Habitat(s) are present within the study area
- Condition of the habitat for the identified threatened species, populations or ecological communities identified above (e.g. foraging substrate; availability of tree hollows; density of ground cover; presence/absence of caves, overhangs, crevices, rock outcrops; presence/absence of permanent or ephemeral water bodies)
- Whether the habitat(s) are connected with similar habitat(s) occurring outside the study area
- Extent of interconnectedness and distribution of habitats within the region
- Nature and extent of disturbance from natural and/or anthropogenic causes that already exist within the study area

Assessment of Significance

Application of the five-part test for threatened flora, fauna or endangered ecological communities under Section 7.3 of the *BC Act 2016* found that there were no significant impacts on any threatened plant species, populations or endangered ecological communities. Consequently, a Species Impact Statement was not provided.

Application of the seven-part test for threatened flora, fauna and endangered ecological communities also appear to be reasonable.

Species Impact Statement

Not required

Report Recommendations

- Planting of 100 Koala trees along the western boundary of the property, to provide long term habitat security and connectivity away from the road.
- Limit speed for trucks to 40 kms per hr

KOALA PLAN OF MANAGEMENT

Not required by LCC KPoM

External Referrals

Environment Protection Authority

The application was referred to the EPA and comments were received on 23 July 2020, (a copy of the response is available on Council's DA Tracking). The response was returned to Council with the reason for the decision as: Lismore City Council is the appropriate regulatory authority. Further details relating to the response from EPA have previously been discussed above by Council's Environmental Health Officer.

Roads Maritime Services

The application was referred to the RMS and comments were received on 1 September 2020 (a copy of the response is available on Council's DA Tracking), advising as follows:

1. *The Traffic Impact Assessment (TIA) identifies an average generation of 10 truck movements per hour, but does not identify the maximum number of peak truck movements in any given hour. TfNSW recommends Council consider such impact and any need to limit the maximum hourly vehicles movements generated by the proposed development.*
2. *The supporting TIA has not identified the existence of the minimum Austroads treatments at the Wyrallah Road and Riverbank Road intersection, particularly with regard to southbound traffic being able to pass a vehicle waiting to turn right into Riverbank Road. TfNSW comment of 6 November 2019 identified the need for any TIA to consider the impact of vehicles turning right and left at intersections along the identified haulage route. The minimum intersection requirements applicable to such assessment are the Austroads Basic right-turn (BAR) and Basic left-turn (BAL) treatments.*

TfNSW recommends that Council obtain a strategic (2D) drawing of the abovementioned intersection demonstrating the existing road formation, the dimensions for the minimum Austroads intersection treatments and available sight distances for the posted speed limit. Where the minimum treatments are not available, then any further assessment may be informed by an independent road safety audit prepared by suitably qualified persons. Council should consider whether the minimum intersection geometry is warranted prior to the proposed increase in peak daily trip generation.

3. *The TIA does not identify any consultation with relevant bus service providers operating on the identified haulage route. Council should consider whether further consultation is required.*

4. TfNSW recommends the Consent Authority require the quarry operator to prepare and implement a Driver Code of Conduct for haulage operators, this could include, but not be limited to;
 - A map of the primary haulage route/s highlighting critical locations.
 - Procedures for haulage through residential areas and along school bus routes.
 - An induction process for vehicle operators & regular toolbox meetings.
 - A complaint resolution and disciplinary procedure.
 - Details of community consultation measures for peak haulage periods.”

The issues raised in this correspondence have been addressed in part by Council’s Development Engineer above and by the applicant as follows (correspondence from Mr Malcolm Scott dated 14 September 2020):

“I refer to Council’s email of 1 Sept 2020 in which it requested a response to comments made by Transport for NSW (TfNSW) in letter dated 1 Sept 2020 in regard the traffic study. I requested Mr Michiel Kamphorst of Ingen Engineers to review the comments. Mr Kamphorst advised:

I provide an itemised response below (using the same numbering as the TfNSW letter).

1. *The figure of 10 truck movements per hour is from the report section labelled ‘peak trip generation’ and reflects typical hourly trip generation during peak periods. Yes, it is an ‘average’ over a day, but is during a day of ‘peak’ traffic. There would likely be some fluctuations to this number of 10 vehicles (which is the nature of statistics), but what the exact fluctuations are would differ per project and per contractor.*
2. *The intersection of Wyrallah Road and Riverbank Road does currently not have BAR treatment. Vehicles behind a truck slowing down or waiting to turn right into Riverbank Road would currently also need to slow down. There is ample sight distance for this (so safety is not an issue) and the SIDRA modelling in section 4.4 demonstrates that from a capacity perspective an upgrade is not required for the proposed development. We can supply a 2D drawing overlaid onto LisMaps aerial imagery to demonstrate what a BAR turn would look like, but given the local topography (in particular the drop in the verge on next to the southbound lane) there would be earthworks involved that would extend into private property (Lot 5 DP 24529). Similarly, construction of a BAL turn would likely also require earthworks extending into private property (Lot 1 DP 804311) as well as possible service relocations (Telstra).*
3. *Further to section 4.5 of the report, consultation with bus service providers is not warranted, but can be carried out if required by the road authority.*
4. *Preparation of a Driver Code of Conduct, when required, is often conditioned in the DA consent. We note that the increase in truck traffic in residential areas will be negligible when compared to the existing truck volumes along the road network. A business case for the preparation and implementation of a Code of Conduct for this development has not been provided by TfNSW. There is no change to the nature of traffic along Wyrallah Road and beyond due to the proposal and one would expect that driver conduct regulation and policing is the responsibility of TfNSW and police rather than the operator of a relatively small quarry.”*

The views expressed above by Mr Kamphorst are supported by Council’s Development Engineer as detailed above under the heading “Wyrallah Road/River Bank Road Intersection” (page 20 of this report).

Consideration

The relevant matters for consideration under Section 4.15C of the Environmental Planning and Assessment Act 1979, are assessed under the following headings:

Section 4.10 Designated development

The development is Designated Development in accordance with this section of the Act and the relevant regulations. The original application was assessed in accordance with the relevant legislation in force at that time.

Section 7.11 Contributions Plan

There will be no change to the condition of consent relating to Section 7.11 contributions as the contributions were calculated in accordance with the s94 plan in place at that time. Extraction rates to date are as follows:

Year	Tonne
1993	131
1994	5,960
1995	17,348
1996	30,159
1997	1,823
1998	2,146
1999	5,382
2000	6,111
2001	25,438
2002	18,415
2003	13,783
2004	25,922
2006	42,762
2007	42,762
2008	28,290
2009	3,277
2010	Nil
2011	Nil
2012	9,076
2013	15,582
2014	32,365
2015	9,050
2016	6,878
2017	36,123
2018	20,868
2019	11,894
2020	7,095 (to end June 2020)
TOTAL	437,359

The relevant section 94 contributions have been paid in accordance with the returns lodged annually amounting to a total of \$171,012.48. The condition relating to the levying of contributions will not be changed as a result of the proposed modification as the Section 94 contributions plan in place at the time the application was originally determined prevails.

Section 4.55 Modification of consents—generally

(2) Other modifications

Section 4.55(2) of the Act enables a consent authority to modify a development consent if:

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

The application has demonstrated that the proposed modified development will be substantially the same development as the development for which consent was originally granted and before that consent was modified (DA92/523). The development will continue in an approved manner and environmental

impacts either unchanged or further mitigated. The primary purpose of the application is to modify the conditions of consent that would have otherwise required the quarry to cease operation.

The application has demonstrated “substantially the same development” as detailed in the previous Section of this report, including Table 1, and by the following characteristics:

- The footprint remains the same as originally granted consent
- The annual extraction remains the same as originally granted consent
- The operation of the quarry remains the same as originally granted consent
- The depth of the quarry remains the same as originally granted consent
- Quarry operations and layout remains the same as originally granted consent

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

Not applicable to this application.

(c) it has notified the application in accordance with:
(i) the regulations, if the regulations so require, or
(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

These provisions have been complied with.

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

These provisions have been complied with.

Section 4.15C – Further assessment

Section 4.15C of the EP & A Act requires consideration of the following relevant matters:

- ***the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality***
 The likely impacts of haulage traffic upon the local road network are considered to have been adequately addressed with the information provided to date in support of the application. Additional information relating to noise impacts have been provided and assessed as meeting all relevant legislative requirements. The application as presented adequately addresses the extension of the life of the quarry for an additional 16 years and does provide contemporary supporting information.
- ***the suitability of the site for the development***
 The proposed extension of the life of the quarry to extract the valuable columnar basalt resource is considered to be suitable for the site. The submitted noise report demonstrates that with appropriate noise management measures, it is considered that an extension of 16 years with the recommended measures will provide a reasonable and improved level of amenity to adjoining properties. Further amenity issues are discussed below at “public interest”
- ***the public interest.***
 The term ‘public interest’ has been termed by the Court as “a nebulous concept that is susceptible to competing interpretations.”

This has become apparent when reviewing the submissions made regarding the proposed modification of consent. Some of the immediately adjoining neighbours raise concerns with protection of Koalas, noise, dust and traffic movements. Whilst other immediately adjoining neighbours raise no issues of concern and provide support for the continued life of the existing quarry operations.

The NSW Land & Environment Court has developed planning principles, being “a *statement of a desirable outcome from a chain of reasoning aimed at reaching, or a list of appropriate matters to be considered in making, a planning decision.*” One of those principles is useful in this instance as it provides criteria for assessing impact on neighbouring properties by assessing answers to the following questions:

- *“How does the impact change the amenity of the affected property? How much sunlight, view or privacy is lost as well as how much is retained?”*
- *How reasonable is the proposal causing the impact?*
- *How vulnerable to the impact is the property receiving the impact? Would it require the loss of reasonable development potential to avoid the impact?*
- *Does the impact arise out of poor design? Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?*
- *Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal?”*

Whilst this Planning Principle was developed for a residential development scenario it is considered a useful exercise to adapt to the quarry situation.

For the purposes of an illustrative example of this principle an assessment of impact will be conducted on the property at 41 Chilcott Street, Monaltrie. The reason for assessment of this property is the proximity to the quarry, as well as being visible to this property, and concerns raised by the owners of the property.

The nearest properties being 55 Chilcott Street (with an approved chicken farm), 34 and 50 River Bank Road, Monaltrie have not been assessed as they have expressed no concerns with the quarry operations. The adjoining property at 124 River Bank Road has also not been assessed, even though concerns have been expressed, as this parcel of land was approved for the purpose of primary production only, and there will never be a dwelling entitlement applicable to this land. It is not considered necessary for this purpose to provide an assessment of properties beyond the immediate proximity and those that are outside the 500m buffer.

The following Table 2 provides a step by step assessment of these questions in relation to the property at 41 Chilcott Street, Monaltrie:

Table 2: Assessment of impact on neighbouring property at 41 Chilcott Street

<i>Planning Principle Question</i>	<i>Assessment</i>
How does the impact change the amenity of the affected property? How much sunlight, view or privacy is lost as well as how much is retained?	There will be no change to the amenity of the affected property, apart from improvements as a result of more effective management of noise and dust. The quarry has existed in this locality prior to granting of development consent on 12 May 1993.
How reasonable is the proposal causing the impact?	Extractive industries are permissible in the RU1 Primary Production zone and natural resource extraction is of benefit to the local economy.
How vulnerable to the impact is the property	The property is vulnerable to impact from noise

Planning Principle Question	Assessment
receiving the impact? Would it require the loss of reasonable development potential to avoid the impact?	and dust. Technical reports submitted with the application demonstrate that improved quarry management will address any impact from noise and dust as a result of quarry operations. Conditions of development consent will require annual audits to be conducted to ensure that the property is not vulnerable to these impacts. There will be no loss of reasonable development potential to avoid the impact.
Does the impact arise out of poor design? Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?	It is apparent that the impact arises from management of quarry operations to mitigate impacts from dust and noise on the neighbouring property. The Technical reports submitted with the application demonstrate that these issues can be effectively addressed. Quarrying at this site can continue for an additional 16 years to extract the approved resource in accordance with the original approval / plans showing the “design” of the quarry and footprint of extraction area.
Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal?	The proposal complies with all planning controls.

It is acknowledged that the quarry provides a valuable resource as well as economic benefit to the Lismore City LGA and employment for a number of residents. This exercise above at Table 2 demonstrates that the issues raised regarding the amenity of the adjoining property/s can be reasonably achieved by improved operational management of the quarry.

On balance, it is considered that the broader public interest will benefit by approval of the requested modification for a further 16 years.

SEPP No 33 – Hazardous and Offensive Development

The existing approved extractive industry is not a hazardous or offensive development.

SEPP (Koala Habitat Protection) 2019

The proposed modification will not result in any changes to the approved project footprint/disturbance boundary, or to habitats generally. No further assessment under the SEPP is required.

SEPP 55 - Contaminated Land Management Issues

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

SEPP (Infrastructure) 2007

The s4.55(2) application does not trigger the provisions of this SEPP.

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

The Mining SEPP contains a specific provision, cl 5, that deals with the relationship of this SEPP with other environmental planning instruments. This provides, relevantly, that *if this Policy is inconsistent with any other environmental planning instrument, whether made before or after this Policy, this Policy prevails to the extent of the inconsistency*. The consequences of this provision exclude from the Consent Authority's consideration any otherwise relevant provisions of the Lismore Local Environmental Plan 2012 (the LEP) and the Lismore Development Control Plan (the DCP) that are inconsistent with the Mining SEPP.

The Mining SEPP also contains Part 3 which requires the Consent Authority to consider matters raised as part of the merit assessment. The relevant provisions for the subject modification are:

- Clause 14, ecological and environmental issues
- Clause 15, resource recovery
- Clause 16, transport
- Clause 17, rehabilitation

These issues are addressed in the above comments on environmental issues, traffic and transport.

The resource recovery issue requires Council to consider the efficiency or otherwise of the development in terms of resource recovery and consider whether the consent should be issued subject to conditions aimed at optimising the efficiency of resource recovery and the reuse or recycling of material. There will not be any changes to the operations in terms of resource recovery, extraction, processing, transport and rehabilitation.

The proposition that an increase to the life of the quarry will result in minimal impacts has been supported by contemporary data provided with the application.

Applicable Regulations

The *Environmental Planning & Assessment Regulation 2000 (EP & A Regulation 2000)* provisions have been satisfied in the processing and assessment of this proposed modification, noting the quarry development is "designated development" in accordance with the above provisions of the *Environmental Planning & Assessment Regulation 2000*.

Part 2 Schedule 3 of the EP & A Regulation 2000

Clauses 35 & 36 state:

Part 2 Are alterations or additions designated development?

35 *Is there a significant increase in the environmental impacts of the total development? Development involving alterations or additions to development (whether existing or approved) is not designated development if, in the opinion of the consent authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development.*

Note. Development referred to in this clause is not designated development for the purposes of section 4.10 of the Act. This means that section 8.8 of the Act (Appeal by an objector) will not extend to any such development even if it is State significant development.

Comment

The application is for modifications to an existing consent and is not a new DA.

36 *Factors to be taken into consideration*

In forming its opinion as to whether or not development is designated development, a consent authority is to consider:

(a) the impact of the existing development having regard to factors including:

(i) previous environmental management performance, including compliance with the conditions of any consents, licences, leases or authorisations by a public authority and compliance with any relevant codes of practice, and

Comment

Refer to Section 2.4 of the Planning Report (SEE) relating to the consent audit.

(ii) rehabilitation or restoration of any disturbed land, and

Comment

Refer to Section 2.4 of the Planning Report relating to the consent audit.

(iii) the number and nature of all past changes and their cumulative effects, and

Comment

Refer to the Planning Report Section 1.1 relating to Background and Section 2.4 relating to the consent audit.

(b) the likely impact of the proposed alterations or additions having regard to factors including:

(i) the scale, character or nature of the proposal in relation to the development, and

Comment

The scale of the quarry does not change and if measured against the approved rate of extraction, will reduce as a result of 'capping' the rate of extraction at 29,970T per annum. The character, nature and land in which extraction is approved to occur generally remains the same as approved in 1993. Conditions of consent will require the applicant to have an EPL issued by NSW EPA prior to the extraction increasing beyond this limit.

(ii) the existing vegetation, air, noise and water quality, scenic character and special features of the land on which the development is or is to be carried out and the surrounding locality, and

Comment

Refer to the Planning Report Section 2.4 and *Attachments No. 6, No. 8, No. 9 and No. 10*. The location of the quarry is relatively discrete. It is not readily visible from either River Bank Road or Wyrallah Road. It is visible from immediately adjoining land (4 properties, 1, to the northwest and 1 to the west and 2 which are owned by Mr Santin to the southwest and northeast of it).

(iii) degree to which the potential environmental impacts can be predicted with adequate certainty, and

Comment

Refer to the Planning Report Section 2.4 and *Attachments No. 8, No. 9, No. 10 and No. 11*.

(iv) capacity of the receiving environment to accommodate changes in environmental impacts, and

Comment

Refer to the Planning Report Section 2.4 and *Attachments No.8, No. 9, No. 10 and No. 11*.

(c) any proposals:

(i) to mitigate the environmental impacts and manage any residual risk, and

Comment

Refer to the Planning Report Section 2.4 and *Attachments No. 8, No. 9, No. 10 and No. 11*.

(ii) to facilitate compliance with relevant standards, codes of practice or guidelines published by the Department or other public authorities.

Comment

Refer to the Planning Report Section 2.4 and *Attachments No. 8, No. 9, No. 10 and No. 11*. An application for an Environmental Protection Licence (EPL) for scheduled premises (quarry) under the *Protection of the Environment Operations Act 1997* will be made to the NSW EPA at the time the DA is prepared to expand the quarry or if Mr Santin decides to exceed an annual rate of production of 30,000T.

Draft EPIs

There are no draft EPIs that affect the assessment or determination of this application.

Lismore City Council

Meeting held 13 October 2020 - Section 4.55(2) Modification to extend the life of the quarry approved by DA5.1992.523.3

Lismore LEP 2012

Zone, Definition and Permissibility

The proposed development is permissible as “extractive industry” within the RU1 Primary Production zone under the provisions of the Lismore LEP 2012.

Zone objectives and Zoning Control Tables

Having regard to the provisions of the Lismore LEP 2012, it is considered that:

- (a) The development is in accordance with clause 2.3 and promotes the specific aims of this plan, the objectives of the zone 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, to modify an existing approved land use.

As extractive industries are permissible within the zone, the consideration of impacts should have regard to what are reasonable impacts arising from such a use. It is considered that the location of the existing quarry is not highly visible due to topography and vegetation, and therefore the visual impacts of the proposed quarry are not unreasonable.

In relation to traffic generation, although the proposed quarry will generate traffic, agricultural uses (not requiring consent) also generate levels of traffic over which Council has no control. Routine agricultural activities and associated vehicle movements must be expected in rural zones, which will require farm machinery and trucks to use the existing road network.

It is considered that the truck movements generated as a result of the extension of time for operation of the quarry are not unreasonable when compared to the rural zoning and the range and intensity of uses that could be conducted without the need for development consent from Council (for example forestry, horticulture, the cultivation of land including crop raising, stock raising, including the keeping or breeding of livestock, poultry or bees, and the growing of fruit & vegetables) under Council’s planning controls.

Concerns have been raised in submissions regarding the potential conflict between haulage trucks and passenger vehicles on River Bank Road. The Lismore Local Government Area (LGA) is comprised of a local rural road network with a large proportion of narrow roads, and the need for driver caution on narrow rural roads is an issue that should be borne in mind when sharing the road use. Council’s development controls specify minimum widths to ensure appropriate road widths for safety and amenity reasons to address such conflicts, and any assessment must have regard to the traffic generation rates and daily vehicle movements. River Bank Road generally meets these standards.

The assessment of these issues indicates that the traffic generation rate of the quarry, and the current daily vehicle movements are comparatively low, and as this is a local road, users will generally be familiar with typical traffic movements and drive to those conditions. Whilst passenger vehicles may be required on occasion to give right of way to larger vehicles, it is not considered that this impact is unreasonable or inconsistent with traffic movements that would arise from agricultural activities permitted without consent, and/or on many other roads within the LGA.

The proposed extension of the life of the extractive industry is considered to meet the objectives of the zone and is permissible in the zone with development consent. It is noted that some of the properties in the vicinity of the site would more likely be considered “lifestyle lots”, when in fact the primary objective of the zone is for rural activities, which specifically includes extractive industries, rather than residential land uses. Quarries have traditionally been typical of the rural vista for many years.

Lismore Development Control Plan

The application has been assessed against the relevant controls in the Lismore DCP as indicated in the following compliance table, and comments are provided where the proposal does not strictly comply with the applicable provisions, or conditions are required to address certain matters. Additional more detailed comments with regard to the major issues are provided after the table.

1. Development Control Plan Compliance Table

LISMORE DEVELOPMENT CONTROL PLAN		
	Complies Yes/No	Relevant Comments
Buffers		
Recommended Buffers	No	Existing circumstance and previously approved.
Conflicts in Land Uses	No	Existing circumstance and previously approved. The purpose of the buffers is to limit residential development being built that would restrict the use of the land for productive agricultural purposes. The buffer zones do not apply in this instance as there is no residential development proposed. Should the buffer zones be relevant, they would be 500 metres primary buffer and 800 metres secondary buffer.
Extractive Industries		
Extractive Resources in Lismore	Yes	The resource is of fundamental importance to the development of our community.
Extractive Industries – Haulage Routes	Yes	See comments above under the heading “Engineering/Traffic/Stormwater Drainage”.
<p>Buffer areas around Extractive Industry Sites</p> <p>Quarrying activities are incompatible with many land uses, particularly those of a residential nature. It is therefore desirable to provide a buffer area around quarries to minimise land use conflicts and safeguard quarry resources which could be sterilised as a result of encroachment by residential land uses. The extent of the buffer requirement depends on the size of the quarry, whether blasting is utilised, the nature of production methods, the extent of crushing and screening operations, topography and site conditions and the intensity of surrounding development and land uses.</p> <p>Large quarries (>10,000m³ pa) Primary buffer = 500 metres Secondary buffer = 800 metres</p>	No	<p>See comments in Buffers above and reference Figure 3 map below showing the distances from the quarry to adjoining properties. Similarly, again previously approved circumstances.</p> <p>Apart from the owner’s properties there is a dwelling within the 500-metre primary buffer area, at 55 Chilcott Street (chicken farm and ancillary dwelling and infrastructure), shown as Property 2 in Plate 7 below. This property owner has lodged a submission in support of the proposed development. Considerable tree planting has occurred on land immediately to the north of the quarry. The proposed noise control measures are considered reasonable and appropriate to ensure the amenity of the property is not affected unduly and reduce the potential for conflict in the event of the property changing ownership in the future.</p> <p>There is also another dwelling within the 500-metre primary buffer at 41 Chilcott Street, shown as Property 4 in Plate 7 below, that has raised concerns with the continued operations of the quarry. The amenity issues relating to this property have been assessed above at Table 2 as an illustrative example.</p>

LISMORE DEVELOPMENT CONTROL PLAN		
	Complies Yes/No	Relevant Comments
		<p>There are three other dwellings within the 800-metre secondary buffer radius at 56 Chilcott Street (submission lodged from owner who purchased the property in 2001), 50 River Bank Road and 39 River Bank Road (no submissions lodged) and a vacant property at 124 River Bank Road (submission lodged by recent purchaser of the property).</p> <p>The proposed quarry operational management measures will minimise impacts on the dwellings/properties at this location.</p> <p>All other residential land uses in the vicinity are outside the 800-metre secondary buffer.</p>
Rehabilitation of Quarries	Yes	Not required to date
Extractive Industry Management Plans	Yes	Submitted with this s4.55 modification application

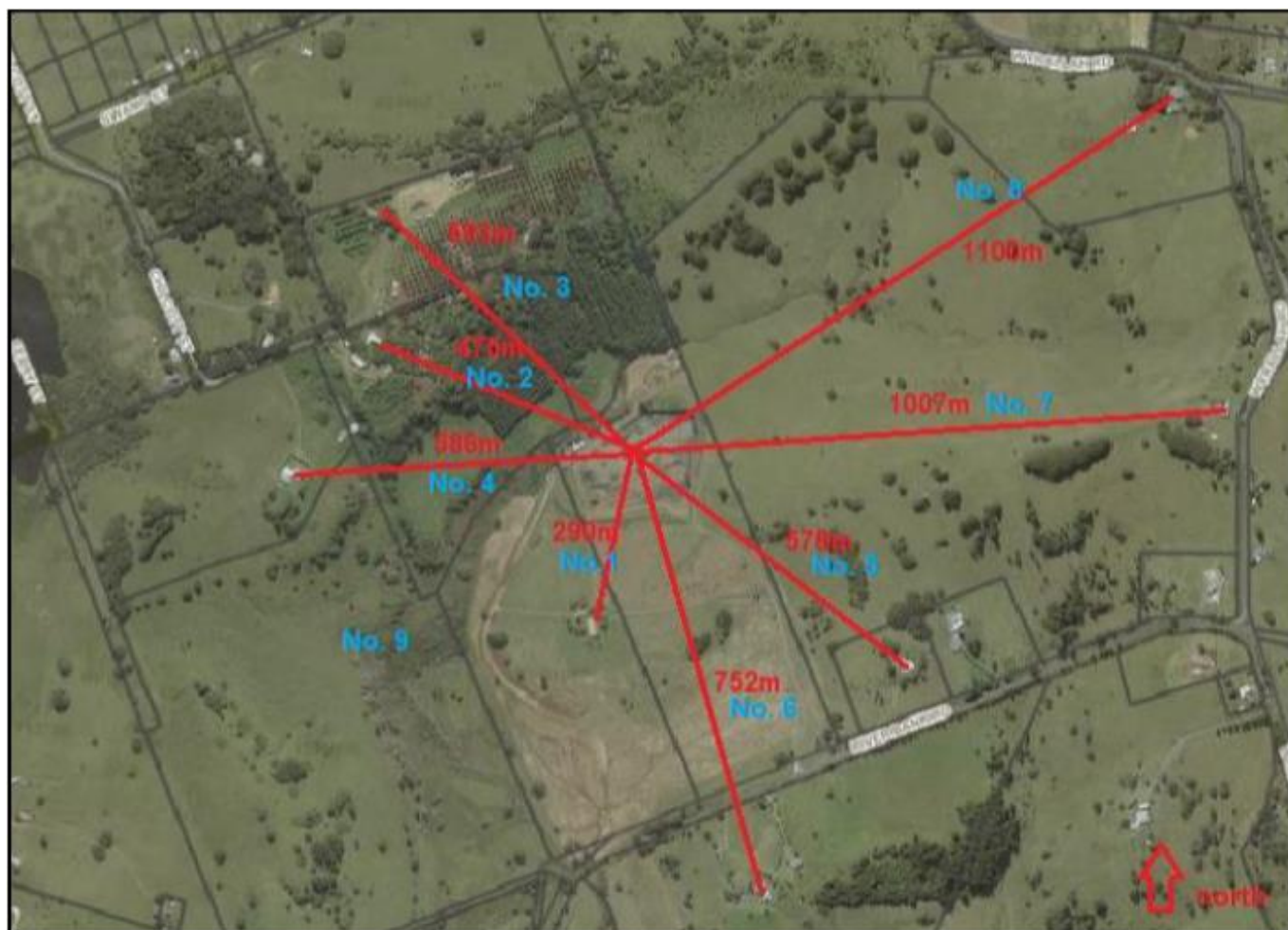


Plate 7: Extract from Planning Report – Distances between Quarry crushing plant and Dwellings

Council Policies

5.17.8 Sustainability, Viability and Amenity of Rural and Urban Land

The proposed development is in accordance with the intent of this policy.

Local Strategic Planning Statement

The proposed development is in accordance with the intent of this policy as referenced previously in this report on Page 4.

Design

The design of the roads to service the existing quarry for the extension of timeframe for another sixteen years is appropriate for the development, subject to outstanding works being completed and conditioned.

Materials

The rock extracted and processed is solid columnar basalt and the quarry products include crushed road base, gravel and aggregate. There is one other columnar basalt quarry in the Northern Rivers region and none in the LCC local government area.

Amenity

Given that the site is not highly visible from adjoining properties due to the intervening topography and vegetation, there will be minimal detrimental impact on visual amenity by the proposed quarry operation. The amenity issue of noise has been dealt with separately in this report.

The quarry is in keeping with the rural nature of the locality and the scale is appropriate for the character of River Bank Road and adjoining rural areas.

Roads Act Approvals

The proposed modification does not require any further approvals for works within the public road reserve.

Local Government Act Approvals

The proposal does not require any approvals under the provisions of the Local Government Act.

All Likely Impacts of the Development

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

ENVIRONMENTAL APPRAISAL

CONSIDERED

1. Statutory Controls	Yes
2. Policy Controls	Yes
3. Design in relation to existing building and natural environment	Yes
4. Landscaping/Open Space Provision	Yes
5. Traffic generation and Carparking provision	Yes
6. Loading and Servicing facilities	Yes
7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8. Site Management Issues	Yes

- | | | |
|-----|--|-----|
| 9. | ESD Principles and Climate Change | Yes |
| 10. | All relevant S79C considerations of Environmental Planning and Assessment Act 1979 | Yes |

Comments

Finance

Should the quarry operations cease (as a result of refusal of the s4.55 modification application) the owners may request a change from a business rating category to a residential rating category. Council would also not be entitled to receive Section 7.11 levies for road maintenance purposes.

Other staff comments

Manager Assets

River Bank Road is not scheduled for reconstruction within the next 3 years. The road is comparable in condition to other roads in the Lismore LGA and is subject to maintenance in accordance with normal practices/capacity. Council has a large road network and other roads have been assessed as a higher priority for upgrade works. The program is reviewed annually and there is an opportunity for new projects to come into the priority list during the review process, but this would mean that a currently selected project, or projects depending on the cost of this project, would need to be dropped.

Regarding the speed limit, River Bank Road would have a speed limit of 100km/hr unless signed otherwise. As always, regardless of the speed limit, people should drive to conditions. Transport NSW is undertaking a speed zone review of River Bank Road and will provide a recommendation when this review has been completed.

Manager Civic Services

The next round of roadside slashing will commence towards the end of October, which will include the intersection of Wyrallah Road and River Bank Road.

Pothole repairs are currently being carried out in the Nimbin and Blue Knob precincts. Wyrallah Road pothole repairs are scheduled to be repaired in October, which will also include River Bank Road.

Public consultation

The public exhibition and submissions to the proposed quarry have been considered and addressed within this report.

Recommendation

This assessment report provides a comprehensive review of all statutory provisions relating to the proposed modification of development consent. Assessment staff have concluded that the proposed development has the ability to meet all relevant statutory provisions and environmental standards, and that a balanced view of the merits of the application has been presented to Council for a decision on the matter. The report demonstrates that approval of the application is in the public interest.

On the basis of the above, the assessing officer supports approval of the application for modification of Development Consent DA92/523 to be extended for a maximum of sixteen (16) years from the date of any consent granted and being subject to the conditions of consent at **Attachment 1** to this report.

Option 1 – Approve subject to conditions

Councillors may form the opinion that the proposed modification has merit, and consider the information provided with the application documents to be a satisfactory basis to conclude that the proposed extension of the life of the quarry for a further sixteen (16) years will not have an adverse impact upon koalas, road network and amenity of the locality, subject to certain measures being incorporated into the consent. A clear conclusion that the proposed modification of development consent is considered compatible with approved uses of land in the vicinity of the development and

is of public benefit, and that appropriate measures have been proposed by the applicant to avoid or minimise any incompatibility. Further, conditions can be imposed on any consent to ensure minimal impact occurs as a result of the extension of the life of the existing quarry operations for a further sixteen (16) years.

To assist Council with their decision making the following options are also presented:

Option 2 – Refuse the proposed modification

Councillors may form the view that the proponent has not demonstrated that the proposed extension of the life of the quarry will not have an adverse impact on the local koala population, road network and amenity of the area. If Councillors are not convinced the impacts upon the local koala population, road network and amenity of the area can be satisfactorily addressed within a reasonable timeframe, then this is the appropriate course of action. Should Councillors form this view then the reasons for refusal of the previous application may be relied on.

The proponent may then choose to do further work and lodge a new application later or may exercise appeal rights.

Option 3 – Partial consent

Section 4.16 Determination of the *EP & A Act 1979* provides for the following:

- (4) Total or partial consent A development consent may be granted—
 - (a) for the development for which the consent is sought, or
 - (b) for that development, except for a specified part or aspect of that development, or
 - (c) for a specified part or aspect of that development.
- (5) The consent authority is not required to refuse consent to any specified part or aspect of development for which development consent is not initially granted under subsection (4), but development consent may subsequently be granted for that part or aspect of the development.

Councillors may form the opinion that the proposed modification has merit, and consider the information provided with the application documents to be a satisfactory basis to conclude that the proposed extension of the life of the quarry for a further 16 years will not have an adverse impact upon koala, road network and amenity of the locality, subject to certain measures being incorporated into the consent. A clear conclusion that the proposed modification of development consent is considered compatible with approved uses of land in the vicinity of the development and is of public benefit, and that appropriate measures have been proposed by the applicant to avoid or minimise any incompatibility.

Councillors may consider that the request to increase truck movements from 20/day to 46/day on 29 occasions per annum is an unreasonable impact and seek to reduce the number of truck movements to 36/day on 29 occasions per annum. Further, the request to include Lot 3 DP 701527 in the “Description of the Development” may not be supported, and the request for extension of life may not be supported for 16 years but may be for (say) 10 years.

Should Councillors form this view, the conditions of the “Partial consent” could be amended to reflect this reduction in truck movements from the quarry, the Description of the Development and the terms of the life of the quarry.

If Councillors wish to consider or pursue any of the above options or alternatives, Council staff will be able to assist to ensure that relevant statutory requirements are properly addressed in any resolution of Council.

Conclusion

All legislative requirements relating to the proposed modification of Development Consent 1992/523 to extend the life of the quarry have been addressed in this report. Apart from a minor variation to the buffer requirements in Lismore Development Control Plan, the proposal meets prescribed development standards and all other legislation requirements.

In recognition of potential conflict of interest due to Council operating its own quarry and concerns raised in submissions, an independent planning peer review was commissioned to ensure that the merits of the “substantially the same” consideration as well as responses to submissions was appropriate and were in accordance with accepted planning practice. A copy of the peer review is **Attachment 5** to this report.

Adjoining neighbours and the wider community have made submissions, some in support of the extension of life of the quarry and a number expressing concern. These submissions have been thoroughly reviewed to highlight all possible impacts of the extension of life of the existing quarry and raise issues in relation to impact on koala population, dust, noise and traffic safety. These issues have been addressed within this report and by conditions of development consent, that will be enforced in accordance with normal practices of Council. The conditions aim to ensure mitigation of any impacts resulting from the quarry on the koala population and adjoining properties, and public safety on roads in the local government area. It is acknowledged that the proposed quarry may result in impacts to local residents, however, it is also concluded in planning terms that these impacts are not of a nature to warrant refusal of the application.

The proposed modification of Development Consent 1992/523 to extend the life of the quarry development at 72 River Bank Road is therefore recommended to be approved subject to conditions.

Attachment/s

1. [↔](#) Draft Conditions of Development Consent (Over 7 pages)
2. [↓](#) Submissions Table
3. [↔](#) Peer Review of TIA by GeoLINK (Over 7 pages)
4. [↔](#) Response to peer review of TIA from Ingen Consulting (Over 7 pages)
5. [↓](#) Peer Review of Council Report by Paul Snellgrove, Ardill Payne & Partners

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
Simon Cripps Clark	<ul style="list-style-type: none"> • Closest neighbour to the development – quarry abuts his property • Submission support of the extension of the quarry • The development supplies material for vital infrastructure • The quarry is of minimal impact and operates in a manner which causes no significant issues • Having a source of road base close to Lismore which can reduce the haulage distance for maintaining local roads will reduce costs and CO2 emissions, as such is of environmental benefit for the community and the plant • Aware that nearby residents have lodged objections and it is his opinion that these are vexatious and baseless and should be treated as such 	<ul style="list-style-type: none"> • Comments noted and supported by the assessment report references and application attachments
Dave & Barbie Henderson	<ul style="list-style-type: none"> • Live next to Mick Santin's quarry on River Bank Road • Understands a group of local people have banded together in order to have the quarry closed • Have no issues at all with the quarry. • There is virtually no noise from it, the truck drivers are responsible on the roads and it provides employment for many local people • It has no environmental impact on the local Koalas and Echidnas, who are still in big numbers • Believe those who want the quarry closed are motivated by financial reasons • The property value has almost doubled in the last six years, and this community group want the quarry gone so they can ask for an even higher selling price • Expressed concerns about the content of submissions from this community group 	<ul style="list-style-type: none"> • Comments noted and supported by the assessment report references and application attachments
Wayne Sullivan Richmond Sand, Gravel & Landscaping	<ul style="list-style-type: none"> • Quarry has been a supplier to their business since the quarry began production 	<ul style="list-style-type: none"> • Comments in support regarding economic, practical and environmental benefits noted

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> • Since taking ownership in 2004, it has been an important part of their Product Supply chain • Support for the quarry is for a number of key factors: <ul style="list-style-type: none"> - The location of the quarry allows customers on the southern side of Lismore to be serviced from a quarry in their area, rather than bringing product through Lismore centre, or neighbouring shires - The cost of logistics is a key component of any business cost structure as bringing product from further away adds costs, increased fuel usage, wear and tear on the road network and increases cost of doing business - Santin Quarry is part of the Lismore City Council area, it employs people, and injects money back into our local economy. Local business entities should be encouraged and supported as our area needs them to ensure profits remain in the local community and are not filtered back into areas outside our local government area 	
L M Tickle Daughter of Betty Driscoll	<ul style="list-style-type: none"> • Quarry down River Bank Road of Mick Santin we have backed onto for 50 years and when they blast, we didn't hear anything 	<ul style="list-style-type: none"> • Comments in support noted
Greg & Kirsty Newman Swan Bay Sandstone Landscape & Quarry Supplies	<ul style="list-style-type: none"> • Santin Quarry has been a supplier to their business for quite some years now, mainly due to location, product availability, and a range of products which we do not have available to us in our own quarry • The location of the quarry allows service to customers with these products in an area which ranges from Woodburn to Ballina to Casino, without going through built up areas of central Lismore and suburbs • Allows locals to be serviced from a quarry in their own area rather than have extra travel 	<ul style="list-style-type: none"> • Comments in support regarding economic, practical and environmental benefits noted

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> • Can supply customers with the products without returning to their depot which saves money - time, fuel and wear and tear on vehicles and local roads • Santin Quarry Products is situated in the Lismore City Council area and employs people that injects money back into that local economy through the use of other local services and businesses • Santin Quarry Products pays rates and levies to Lismore City Council and, as such, is in turn a source of income to LCC and other local business • Local business entitles should be encouraged and supported by their LGA and community as it ensures profits remain in the local community where possible 	
Terry Hinrichsen	<ul style="list-style-type: none"> • Farm is very close to this quarry with issues with dust and noise • It is basically too close to town and neighbours • How is little old River Bank Road going to handle the rise in truck numbers and what about the school bus run? • His farm is 160 acres and has 32 titles and is currently looking at some sort of subdivision, but who will buy one of these blocks with this noisy, dusty quarry just over the hill within sight. • If the application is successful it will make an impact on prices of the block or blocks and will have trouble even selling them. • As a member of the local Landcare have planted many trees for the Koalas as Monaltrie is a corridor for them • Linking trees for our little friends from areas of Chilcott Road to the river and along River Bank Road (approximately 8kms long spread between 7 farms) • Fears the noise, dust and blasting will make all this good work done for nothing 	<ul style="list-style-type: none"> • Property is over 834 metres from the quarry with contours indicating there is a hill in between • Quarry has been operating since 1992 • Traffic issues addressed separately in this report • Preliminary research indicates that Mr Hinrichsen property does not have any potential for subdivision or sale of lots separately with dwelling entitlements as a large portion of the land is flood prone and the minimum lot size for subdivision is 40ha • Property values are not a relevant planning consideration in accordance with the provisions of s4.15 of the <i>Environmental Planning & Assessment Act 1979</i> • Noted planting of koala trees by Landcare • Impact of the quarry operations on koala is addressed separately in this submission table or Council report

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> • Monaltrie is a beautiful, quiet spot only 10 mins to Lismore CBD 	
Rebecca Robertson	<ul style="list-style-type: none"> • Writing in support of our local quarry, and neighbour Santin Quarry Products (SQP) • My property was purchased in 2007 knowing the quarry was there, and I have lived there ever since • We have never had any issues with the quarry at all. • The comings and goings of the trucks, the operations of the quarry itself, has never impacted us in a negative way. • There are no noise issues, the other road users are courteous, and I do not see any circumstances in the area where our wildlife or environment is negatively impacted 	<ul style="list-style-type: none"> • Comments noted and supported by the assessment report references and application attachments
J Paccagnella	<ul style="list-style-type: none"> • Having lived on River Bank road for the last fourteen years as a neighbour of the quarry has absolutely no problems with the extension being applied for • The quarry is a significant resource for our area • Do not find any noise or activities from the quarry to be noticeable when they are operating • Major activities like blasting do not happen very often and, as such, just don't affect me • It would be detrimental to our town if another small business closed down • More jobs lost, more people leaving Lismore 	<ul style="list-style-type: none"> • Comments noted and supported by the assessment report references and application attachments
Peter and Noel Hovelroud Joy and Jim Piper	<ul style="list-style-type: none"> • Wish to lodge our objections • Reside in the 3 properties that about the intersection of Wyrallah Road and River Bank Road • Santin quarry has applied to increase the amount of trucks to a maximum of 92 trucks per day to go around our corner • Believe this is an excessive amount of heavy vehicles and is dangerous 	<ul style="list-style-type: none"> • Noted • At the time of the original development consent this intersection was deemed to be satisfactory to cater for material that would be leaving the quarry, as this modification is to only increase the time there is no nexus to warrant any additional intersection upgrades

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> • The intersection is on the crest of the hill and at this point Wyrallah Road has a slight bend to it which limits visibility • Large trucks and trailers using this corner is not a safe option without installing new dedicated turning lanes and approach lanes • River Bank Road and Wyrallah Road intersection does not have the capacity for this amount of heavy vehicle turning • Consider Champions Quarry intersection in Tucki should be the minimum requirement, it has dedicated access and turning lanes from both directions and is also on a section of Wyrallah Road • A truck going past the front door of our houses every six minutes, even if it were limited to 29 days per year is not acceptable to us • Will have a devastating effect on our health, our living standards and the value of our investments 	<ul style="list-style-type: none"> • There is no additional truck traffic on average than originally approved • There is no additional extraction of quarry product • A review of the historical accidents data demonstrates no registered accidents occurring along the frontage of the site involving trucks nor at the intersection of River Bank Road and Wyrallah Road. • The nearest recorded crash on Wyrallah Road (to the north of the intersection) was associated with the curve in the road and not the intersection • Champions Quarry was a State Significant development that quarried 250,000 tonnes per year (600% more) • This increase in traffic is minimal in comparison to the total traffic numbers expected on Wyrallah Road • Comment is not able to be provided on personal health or living standards • Value of investments is not a relevant planning consideration
Noel Hovelroud (first submission)	<ul style="list-style-type: none"> • Reasons for objections outlined in previous submission • This new modified version is still basically the same, just a few less years • Opinion as an ex truckie is that River Bank Road is not built for the hiding it is getting • Report to Council in 2015 said it was nearing the end of its life – five years on its clearly even closer to the end of its life • River Bank Road is a narrow country lane and allowing gravel trucks up to a 45 tonne semi-trailer is an accident waiting to happen • The intersection with Wyrallah Road is a disaster 	<ul style="list-style-type: none"> • Road network has capacity for truck traffic as well as all other road users • River Bank Road is classified as a sub-arterial road and on that basis alone has the capacity to cater for a quarry. It is noted that the width of this road varies from 5.0 to 5.5m • Residents' concerns regarding the state of the road and that a sub-arterial road is so narrow can be referred to Council for consideration in the Roads Program • These claims have not been substantiated by evidence

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> • School business, baseball team buses, the tourists looking at koalas, the cycling clubs and the locals, human and native animals. To subject all of them to a massive truck and trailer hauling gravel around blind corners and over blind crests is madness. • This road is not made for the traffic that is proposed, have asked an expert to review the TIA provided with the above application. 	<ul style="list-style-type: none"> • There is no change to the average traffic movements from the quarry • As the quarry has been operating since 1992 road users would be aware of quarry traffic • The peer review of the Traffic Impact Assessment relies on information provided by the submitter, and is addressed by Council's Development Engineer in the assessment report
James Berkaya	<ul style="list-style-type: none"> • Opposing submissions may have been orchestrated by an individual with a vested interest in this application • There is no valid consent, therefore no modification may be granted • This application is not permissible under the current DA conditions • The proposed modifications within this application do not meet the substantially the same development test: <ul style="list-style-type: none"> - increasing maximum truck numbers per day from 20 to 46 - extending the life of the quarry by a further 64% - more than a 100% increase in the area defined by the DA • 2015 application was withdrawn following peer review • Questions validity of legal advice • Concern raised about modification of the description of the land to which the DA relates • Access road is nothing more than a derelict track • Not in the public's interest: <ul style="list-style-type: none"> - Health risk from dispersion of silica dust into the air puts Council at future liability - Seven residents objected to the extension of the quarry in April 1993 - Noise - Dust 	<ul style="list-style-type: none"> • Council is not in a position to question the validity of submissions • Addressed separately within the assessment report • Addressed separately within the assessment report • The application referenced was withdrawn by the applicant and was seeking to increase the amount extraction per annum from 40,500 tonnes to 79,500 tonnes, as well as the life of the quarry for another 20 years • Addressed separately within this table or the assessment report

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> • Questions statement about “only 2 columnar basalt quarries” • There are at least five quarries in the near vicinity all producing the same products • Applicants continuing disregard for consent conditions • Not fair that the responsibility of ensuring compliance is carried by the community of Monaltrie • Monaltrie is a very different place to what it was in 1992 and home to far more people • There is no place for a quarry in Monaltrie as detrimental impacts outweigh any benefit • This is not a new DA, this is another modification, that mirrors the one that was just rejected 	<ul style="list-style-type: none"> • Quarry can also be deemed a valuable local resource • Council acting in good faith to ensure compliance – updated consent with contemporary conditions may assist to clarify and correct the existing situation • No further subdivisions have been approved since mid-1980s – apart from a primary production lot that has no dwelling entitlement • Technical reports demonstrate that impacts can be mitigated • Additional technical / specialist reports accompany this application
Keryn Binney	<ul style="list-style-type: none"> • Object to the extension of the quarry • Had driven along Riverbank Road numerous times over my life, it is narrow, usually bordered by overgrown grasses and often in need of repair • It is hazardous for two vehicles to pass and dangerous with two dump trucks or a bus • Cyclists also travel on the road and if the truck driver does not see a cyclist, it is very dangerous • When people pay attention to the environment and local habitats how trucks travelling on Riverbank Road, which is koala habitat, will be good for the local wildlife, particularly the koalas • Taking primary agricultural land and/or future residential land for an expanded ugly, noisy, dusty, polluting quarry • Food security and clean agricultural produce is important and opportunity to develop and build thriving farming / rural communities 	<ul style="list-style-type: none"> • Concerns noted and addressed previously in this table or within the assessment report

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> • Time to return Riverbank Road to its state as a glorious country way, home to families, sustainable farming and local wildlife 	
Lyn Binney	<ul style="list-style-type: none"> • Family reside on Riverbank Road for 70+ years have surrounded or bounded the quarry for its total life • Dating back to 1993 a few of the neighbours objected to the application because of water pollution, noise, trucks, dust, koala habitat • In the earlier years the quarry only blasted on odd occasions and crushing was rare. • Trucks were a nuisance walking dairy cows around the road • All in all, kept friendship with Mr Turcato and family, and are still friends today • Quarry has ramped up its full operations with more blasting and crushing • The reason that she knows this is because her daughter has bounded the quarry for the last 20 years and been complaining about it • When we visit her place the over burden with noise and dust and health risks is simply unpleasant • Late husband collected gum seedlings from one of their properties and planted the gum tree seedlings around River Bank Road to encourage the koalas, which is a well-known tourist attraction • Effect of quarry operations on the community and the environment will be catastrophic and irreversible 	<ul style="list-style-type: none"> • Concerns noted and addressed previously in this table or within the assessment report
N Hovelroud (second submission)	<ul style="list-style-type: none"> • Attached a review of River Bank Road and the impacts made by the operations of Santin Quarry using this road as their main route for deliveries • Attached opinions expressed by Michelle Erwin, Senior Civil Engineer, GeoLINK 	<ul style="list-style-type: none"> • Concerns noted and addressed previously in this table or within the assessment report

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
Lindy Margan President Monaltrie Landcare	<ul style="list-style-type: none"> • Expresses reservations in approving this development application as this is a known koala area • Report states no koalas have been sighted but how can this be when they are known to move up to 60km and the area is surrounded by koalas • Monaltrie Landcare is planting a corridor to protect this iconic species along the Wilsons River and the ridgelines south of Lismore to Wyrallah. • This property falls within an area of fragmented koala habitat and is an important link for koalas to move safely throughout the landscape • Concern about breach of conditions, specifically the number of truck movements per day, increased dust and noise affecting neighbours and wildlife, working outside of business hours, risk of an accident • Consider the following suggestions for this Development Proposal: <ul style="list-style-type: none"> - Replace the 25-year lease with 5x5 years. An audit must be conducted every 5 years by Council to ensure all conditions have been adhered to; - Only then will the next 5-year extension be granted. - The owner undertakes to plant a wildlife/koala corridor on the land to restore the fragmented koala habitat, to increase biodiversity, provide a noise buffer and decrease the dust drift to neighbouring properties; - Owner must strictly adhere to daily truck movements; - The owner must strictly adhere to number of blasting days; - Entrance to the quarry be changed. Trucks turn directly off Wyrallah Road and the owner builds a new internal road through his land to access his 	<ul style="list-style-type: none"> • Concerns noted and addressed previously in this table or within the assessment report • Noted that the current and previous owners' have not complied with all conditions of consent • Council acting in good faith to ensure compliance – updated consent with contemporary conditions may assist to clarify and correct the existing situation • Positive suggestions noted and addressed separately within the assessment report and recommended conditions of development consent

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<p>quarry. Far less impact on River Bank Road and neighbouring houses and reduced potential for road accidents;</p> <ul style="list-style-type: none"> - Council and EPA conduct regular inspections to ensure the business is complying with regulations; - The owner works co-operatively with neighbours to address complaints and/or concerns 	
Anna Collin-Attrill	<ul style="list-style-type: none"> • Concerned member of Friends of the Koala • Understands there is no evidence that the DA has carried out a comprehensive and extensive survey in relation to the detrimental effects of the proposed quarry extension on the impact on local endangered koala population • Notes this was highlighted of importance during the pre-lodgement meeting 	<ul style="list-style-type: none"> • The applicant has submitted a comprehensive Koala Assessment report in accordance with the Lismore Comprehensive Koala Plan of Management • This report assesses the impacts on koalas including movements and koala habitat
Alison Binney	<ul style="list-style-type: none"> • The applicant has not historically acted in accordance to obligations and requirements in operating the quarry • Should the application be considered for approval puts forward some reporting and accounting measures to include in any conditions for approval • Very important as if a neighbour makes a complaint, which is a limited mechanism for neighbours to express concerns, they are being accused of being "vexatious" • Questions evidence and accountability and reference in report to "<i>making a DA in due course to laterally expand the quarry</i>" • Responsibility of the applicant and LCC to provide ongoing evidence of impacts of the operation of the quarry – during average and peak operation times • Requested conditions if the consent to extend the life of the quarry is approved: 	<ul style="list-style-type: none"> • Noted that the current and previous owners' have not complied with all conditions of consent • Council acting in good faith to ensure compliance – updated consent with contemporary conditions may assist to clarify and correct the existing situation

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> - Site vehicle traffic recording (LCC to install a traffic counting mechanism on Riverbank Road that provides daily counts of number of large vehicles heavier than 2 tonne existing and entering the site with this record accessible online for the public) - Extraction volumes recording (LCC in partnership with SQP (and other quarries within the LCC boundaries) to provide an extraction record system, access online for the public) - Koala habitat and vehicle strike recording (LCC in partnership with local koala organistiaons to provide and record detailed counts and sightings of koalas in and around Monaltrie and Wyrallah areas. Records should be current and updated at least every 3 months. Where possible, tracking tags should be attached to koalas in the event a vehicle strike happens but is not reported. - Air quality index recording (LCC in partnership with the applicant, provide daily date of air quality across the site and surrounds, made accessible online for the public) - Water quality testing and reporting (LCC in partnership with the applicant provide regular (minimum monthly) records of water quality samples across the LCC boundaries, made accessible online for the public. <ul style="list-style-type: none"> • Strongly objects and believes the impact assessment data supplied is not relevant for the proposed timeframe of 16 years 	<ul style="list-style-type: none"> • The impact assessment data has been verified by Council's technical officers
Darren Ball	<ul style="list-style-type: none"> • Object to the proposed quarry extension as this is a re submission of an application recently rejected by Lismore City Council by unanimous vote 	<ul style="list-style-type: none"> • The application referenced was withdrawn by the applicant and was seeking to increase the amount extraction per annum from 40,500 tonnes to 79,500

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> • None of the circumstances it was rejected for at that point have changed • Council required extensive reporting by the owner on an annual basis including quantities of extracted materials; environmental impacts (dust, noise and water) pollution; along with multiple other operating procedures including traffic and infrastructure impacts be provided. • Council is unable to produce the said documents • The owner has never in the past complied with his DA and it would be fair to assume non-compliance will continue • Adjoining neighbour whose young family has for years endured the dust from quarries operations • Find his reference to silica dust as a low risk the most disturbing • Why should his family be placed at any risk for another's profit? Who is responsible for later health issues arising from approval being granted? • Former complaints and photographic evidence of the dust plumes settling across our property have already been acknowledged by LCC compliance officers • Would in his opinion be negligent of LCC to approve any application which puts any ratepayers at risk of long-term illness or death • Objects to the proposal on many grounds (trucks, habitat destruction, noise) however has focused concerns on family's health foremost • Finds it dumbfounding that after councils own employees have indicated that it was most likely the quarry would NEVER be approved in this location, or given the legal obligations of the proprietor as a NEW DEVELOPMENT the proprietor has made the application a modification not a new application 	<p>tonnes, as well as the life of the quarry for another 20 years</p> <ul style="list-style-type: none"> • Noted that the current and previous owners' have not complied with all conditions of consent • Council acting in good faith to ensure compliance – updated consent with contemporary conditions may assist to clarify and correct the existing situation • Council assessment staff address the issue of silica / dust and health issues separately within the assessment report • Comment is not able to be provided regarding family health issues • Noted • Assessment staff are not aware of this advice

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> • Ask Council what their legal rights are to decide which ratepayers should and should not be exposed to potentially dangerous dust emitted for another's monetary profits? • Attached a link from an Australian government site regards the danger of silica in a quarrying / mining situation • Attached a photo of the view from his lawn depicting a typical day's operation at the applicant's premises 	<ul style="list-style-type: none"> • Purchasers of land make their own decisions regarding the location in which they live when they are aware that an adjoining quarry has been in operation since 1993 • Concerns noted and addressed previously in this table or within the assessment report
Helen Ball	<ul style="list-style-type: none"> • Objects to the extension of this application • Silicosis – lung disease – attaches a photo showing the dust plumes escaping from SQP and expanding across the land travelling the distance in the air over my and neighbouring properties • Questions why her family be at any risk from breathing this dust and contamination of drinking water from dust • Has no faith in someone who is not adhering to the conditions of consent, at her family's expense? • Who is liable for my whole family LCC as the regulatory authority of SQP? • Having bounded the quarry for most of its life feels the quarry has had an easy run of 27 years • Endured years of non-compliance and tolerated years of impact from dust and noise in the belief it was to cease operating accordingly with the lapse date • Impacts are intrusive and unsettling, the health risks alone are concerning for my family and neighbouring friends • Some consideration and co-operation as a bounding neighbour would have been an advantage to SQP particularly adhering to DA conditions • Property is within 500m of the quarry and impacted the most with prevailing winds 80% of the time 	<ul style="list-style-type: none"> • Concerns noted and addressed previously in this table or within the assessment report • Purchasers of land make their own decisions regarding the location in which they live when they are aware that an adjoining quarry has been in operation since 1993 • Noted that the current and previous owners' have not complied with all conditions of consent • Council acting in good faith to ensure compliance – updated consent with contemporary conditions may assist to clarify and correct the existing situation • Concerns noted and addressed previously in this table or within the assessment report

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> • Dwelling is not deemed as of importance particularly as the quarry footprint has grown to just below my front lawn • SQP does not notify of drilling, blasting or crushing • Measurements to front lawn is only 332m • Questions why report does not acknowledge her residence as a close neighbour • First application LCC stated no previous complaints from any neighbour, which was false as had mentioned to SQP many times about the noise, dust and need for buffer zones • Consideration was not given by SQP so sought help and involvement of LCC and made many complaints regards these issues • Dust has been an issue for many years (photographs inserted) • Silica health risk mentioned again and liability • Unsealed road into the quarry creates plumes of dust • Measures to mitigate noise impacts are still not in place including: <ul style="list-style-type: none"> - Crushing machine to be covered with carpet - 10 metre berms placed on quarry floor surrounding crushing plant on western side - 6 metre earth berms on western side with trees and shrubs established - Wind direction/intensity to be considered • Extraction rate is questionable, as the quarry crushes most days • Business hours are 7.30 – 4.30 being 9 hours per day six days per week (provides calculations of number of hours of operation / crushing) and asks why notification in advance could not be given 	<ul style="list-style-type: none"> • Technical reports demonstrate that compliance can be achieved • Supported by recommended conditions of consent including reporting requirements • Recommended conditions of consent are in line with the framework of NSW EPA licenses • Concerns noted and addressed previously in this table or within the assessment report

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> • Condition 4 of consent requires monitoring / reporting and if this had occurred there wouldn't be as many issues to date • The area is designated as a koala corridor and expresses concern that there has been a decline in koala numbers in the last 5 – 8 years • Local land care groups and neighbours have given substantial amounts of funding to regenerate the land an environment for the koala habitat, to encourage koalas into the area • This effort would be wasted because of the pending application • SQP has stated that he may apply for an EPL or might apply if they think they will extract more than 30,000 tonnes • As there is uncertainty around this feels the whole application is false and misleading • Insert of conceptual framework between quarry dust and health risks 	<ul style="list-style-type: none"> • The impact assessment data has been verified by Council's technical officers
Brent Hall	<ul style="list-style-type: none"> • Looking to return to the area to enjoy his retirement • After a close call with a quarry truck on River Bank Road concerned about road safety • Concerned about this application and future expansion of the quarry given its impact on traffic as well as the environment, water, noise and air quality • Quarry has operated for over 25 years and Council have failed to ensure safety is upgraded and this does not bode well for future activity on the site • People of Lismore expect their Council to hold developers to the same high standards applied to quarries elsewhere in NSW • Approval of this application would risk ongoing road safety issues, environmental damage and have a 	<ul style="list-style-type: none"> • Comments about preference for retirement noted • Quarry resource has not been exhausted to date • Council's road network is regularly traversed by truck traffic and see traffic comments • Comments noted and addressed separately within the assessment report

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	significant negative impact on the enjoyment and safety of nearby properties <ul style="list-style-type: none"> • Council has a duty to minimise harm to the natural environment and local communities 	
Isabelle Ball	<ul style="list-style-type: none"> • Local and have lived here entire life for the last 18 years • Quarry has been a nuisance and she personally struggles with asthma and allergies and the quarry's dust has not helped the situation • Expresses concern / research that silica is a harmful and invisible dust produced and spread in the dust created from the quarry • Questions who is responsible for her health and who is to be held accountable • Younger brother has a heart disease and is at serious risk with the dust and silica from the quarry • They have had no choice in their own health living next to the quarry with life-threatening issues • Student at Trinity Catholic College and undergoing year 12 with HSC study being stressful time for her • During COVID-19 found schooling at home difficult with quarry crushing, drilling and blasting right next door • Chooses not to impact her own health with smoking knowing the health hazards, but is stuck breathing in silica every day • Asks that the entire letter be considered 	<ul style="list-style-type: none"> • Council assessment staff address the issue of silica / dust and health issues separately within the assessment report • Comments noted and addressed separately within the assessment report • Council is not able to provide comment on health issues
Vita Attrill	<ul style="list-style-type: none"> • Over the last year had pleasure of getting to know the lovely area of Monaltrie and its community • Shocked by offensive disturbances produced by the River Bank Road quarry • Highlights ongoing impacts from SQP quarry on economy, community and environment • Lismore Shire is expanding with economic opportunities and a steady population increase 	<ul style="list-style-type: none"> • Noted • Concerns noted and addressed previously in this table or within the assessment report • Noted

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Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> • This results in increases within the property market and valuation of surrounding areas • Monaltrie thriving alternative to living a rural lifestyle close to urban amenities • High fertility of the soil makes it the perfect region to explore farming prospects with high successes • Increase in demand for residential land and high productivity of the area makes extractive industries unsuitable within Lismore and its surrounding areas context • The proximity to primary industries rural residential lots have with the quarry are undesirable and inhibit the potential increase in land prices and overall economic growth of the area • Community of Monaltrie will be in a worse off financial position through devaluation of their property and suffer from sensory burdens and concerns about their health and road safety • Most obvious disturbance caused by the quarry is visually • Long term residents are forced to overlook the abrupt, offensive and ever-expanding site, reducing their quality of life and devaluing their property • Noise is also a major factor from rock crushing and heavy truck activity • Extremely alarming correlation between crushing of basalt rock and silicosis • Shocked to find the practice happening in such close proximity to an area of flourishing primary production, residents and thriving koala populations • Risk of respiratory inflammation could be detrimental to the health of the community, livestock and wildlife, and ecosystems and food supply 	<ul style="list-style-type: none"> • This is not a specific planning consideration for the determination of DA's • Monaltrie area is zoned RU1 Primary Production and may give the impression of "residential" land as a result of previous subdivision of the land • There is no further opportunity for subdivision of land in this area as the minimum lot size is 40ha • Lismore Council Local Strategic Planning Statement supports the retention of extractive industry resources within the LGA • Lismore DCP Chapter 11 objectives is to address primary industries / residential land uses to protect the use of the land for primary production / extraction of natural resources from intrusive residential development • This is not a specific planning consideration for the determination of DA's • Concerns noted and addressed separately within this table or the assessment report • It is Council staff understanding that the quarry is visible to only one residence in the locality • Concerns relating to noise, silica dust, traffic safety and impact on koala population noted and addressed previously in this table or within the assessment report

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Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> • Quaint River Bank road is unfit to be frequented by larger trucks as the road is used by occasional walkers, cyclists, horse riders and wildlife (koalas use the road to cross from food source to food source) • Narrow turns and unsteady surface pose a safety risk • Scientific evidence suggests noise and mechanical shakes cause disruption to surrounding biodiversity • Dust causes respiratory inflammation and settles on leaves, suppressing plants' ability to photosynthesis • Lismore's koala population rely on the area's eucalyptus trees for their food source, which are exposed to dust from the quarry • Recent research suggest that koalas could become extinct in NSW 2050, exacerbated by devastating bushfires • Dust can also settle in water ways, concerning as Monaltrie comprises dams, wetland area and streams which contribute to the larger ecosystem of the Lismore Shire and potentially pollutes livestock's water sources 	<ul style="list-style-type: none"> • This could be said about most of the roads within the Lismore LGA, as there is a lack of funding available to maintain the road network to a high standard • Concerns relating to noise, silica dust, traffic safety and impact on koala population noted and addressed previously in this table or within the assessment report • The koalas in Lismore LGA are listed as Vulnerable on the NSW Threatened Species List. There are "Endangered Populations" of koalas, such as Tweed coast however this status does not apply in Lismore. • Bushfires in NSW noted as having potential impact on koala population in those areas of the state • Concerns noted and addressed previously in this table or within the assessment report
Jules Morton Friend of the Koala	<ul style="list-style-type: none"> • Member of the Friends of Koala group • Concern raised that there is no evidence showing that a proper Koala survey has been carried out 	<ul style="list-style-type: none"> • Concerns noted and addressed previously in this table or within the assessment report
Scott & Melita Gapes	<ul style="list-style-type: none"> • Purchased property in December 2015 with the understanding that the quarry had previously applied for an extension to 2040 that was rejected by LCC • Questions Condition 2 and Condition 3 with regard to commencement and lapsing of the consent • No application can be submitted to Council for extension during the final 9 months • Applicant does not hold a valid consent and cannot apply for a modification • Continued non-compliance of the operating conditions as operating hours are continually breached 	<ul style="list-style-type: none"> • The application referenced was withdrawn by the applicant and was seeking to increase the amount extraction per annum from 40,500 tonnes to 79,500 tonnes, as well as the life of the quarry for another 20 years • Appears not fully informed then, that the quarry would close in 2020, when property purchased in 2015, as the quarry has been in operation since 1993 and had/has lawful options • Concerns noted and addressed previously in this table or within the assessment report

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Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> • Quarry may have encroached onto adjoining land and expanded beyond its current approval • Non-construction of the acoustic earth mounds and associated landscaping that should have been completed prior to commencement of quarry operations • This work was required 20 years ago has not been undertaken to date • Noise and dust having impact on local environment and on their health, and daughter suffering bronchitis and asthma • Economic impact on property prices in the Monaltrie area • River Bank Road in a state of disrepair, would have to be by far the worst road in the Lismore Council local area • 2015 DA application was rejected • LCC promotes itself as Koala Friendly and River Bank Road considered a core breeding area and promoted as a tourist drive • None of the concerns raised previously have been rectified • In 2015 LCC stated the DA "was not in the public interest" 	<ul style="list-style-type: none"> • Minor encroachment of quarry infrastructure on adjoining parcel of land (owned by quarry operator) • The current operator has been undertaking works as and when it is possible – unable to comment on previous operators • Council is not able to provide comment on health issues • This is not a specific planning consideration for the determination of DA's • Previous application proposed increase in annual extraction from 40,500 tonnes to 79,500 tonnes (almost double the amount of extraction) • All other concerns noted and addressed previously in this table or within the assessment report
Belinda Berkaya	<ul style="list-style-type: none"> • Registered proprietor of property which shares a boundary with Lot 3 DP 701527 (objects to the inclusion of Lot 3 DP 701527 on the consent) • Graze cattle and in process of regenerating land particularly the small wetland area and creek that runs through the land and into which the quarry surface water drains • Objections essentially the same as previous application to modify DA 1992/523 lodged by proponent on 8 October 2019, which was refused unanimously by council on 21 April 2020 • Additional objections go to the lawfulness of this Application 	<ul style="list-style-type: none"> • Minor encroachment of quarry infrastructure on adjoining parcel of land (owned by quarry operator) can be considered within this current application • Noted the uses of the land purchased as a primary production lot (with no dwelling entitlement) • Concerns noted and addressed previously in this table or within the assessment report

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> • Current zoning allows a quarry to operate on Lot 4 if operating under a current DA, holds the opinion the part that Mr Santin is trying to take by making an application to modify is wrong in the law and also on the merits • Councillor Cook invited Mr Santin to lodge a new DA as Councillors agreed the October Application did not pass the substantially the same development test and had not demonstrated that extension of the quarry would not have an adverse effect on koala population, the road network and the amenity of the area • Original DA approved over 25 years ago and the law has changed • Not appropriate for the operation of the quarry to avoid the appropriate and rigorous laws that now regulate the operation of a basalt quarry by continuing to operate under the old laws that were in existence in 1992 by seeking "modifications" • Laws existing to regulate and for the benefit of all living stakeholders and future stakeholders • Councillors have been elected to govern and are required to be correctly informed in discharging their obligations • Council staff have duties to their employer to act in good faith and ensure information provided to Councillors is correct • Quarry is now in 9-month restoration stage and questions that changes to the consent conditions are not permissible due to wording of Condition 3 • Application contains a self serving letter from Mr Santin's solicitors Fishburn Watson O'Brien The Law Specialists dated 30 June 2020 • Questions the conclusions of legal advice from Mr Fox 	<ul style="list-style-type: none"> • Council staff acting in good faith • Council legal advice supports the view expressed by Fishburn Watson O'Brien • Concerns noted and addressed previously in this table or within the assessment report

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> • Questions whether the development is still substantially the same due to increase in life of quarry by 74% extension of time • Pre lodgement minutes required Application to address objections raised in the October Application – same issues exist • Council staff see themselves as the marketing arm of the proponent • Relevant information is not provided to Councillors, even when they ask • If it was not for the information provided by her and other neighbours the October Application may well have been dealt with under delegation and without proper scrutiny by the relevant staff • No testing or questioning of the report of Mr Scott, nor is there any peer review of the professional reports provided in support of the application • As the saying goes It is not enough that Justice is done it must be seen to be done • Original DA has lapsed • No modification to extend can be made other than for the purpose of restoration • Even if the modifications sought were able to be made, they are so radically different to what was envisaged back in 1992 • When assessing such qualitatively and quantitatively the Application fails the substantially the same development test • The application if approved is not in the public interest • Insufficient environmental protections in place to protect waterways; koalas and other endemic fauna; health of those who reside and work in the area from silica dust; use of River Bank Road by trucks which service the 	<ul style="list-style-type: none"> • Council staff acting in good faith and have no conflict of interest • The impact assessment data has been verified by Council's technical officers • Concerns noted and addressed previously in this table or within the assessment report

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<p>quarry is dangerous; intersection of Wyrallah Road and River Bank Road is dangerous; economic benefits do not outweigh the detriments</p> <ul style="list-style-type: none"> • Questions information in the application relating to employee numbers • Five other basalt quarries in the Lismore area including the one that is owned by Council • Mr Santin knew when he purchased this quarry it was to cease operation before 2020 • Long history of non-compliance with consent conditions • Not in the public interest for council to approve any development that they cannot properly monitor • Hears continually how Council is in a dire financial crisis so it appears Council will not be better resourced to allow proper monitoring • The operator has no incentive to comply with conditions when he knows he will not be investigated nor sanctioned • Next twelve pages of Submission elaborates on points raised • Submission is supported by Annexures as referenced within the Submission • If this application for Modification was approved without the proper safeguards and investigations having taken place, then in her view: <ul style="list-style-type: none"> - Every year for another 16 years the pollution of watercourses and the possible destruction of aquifers continues; - Every year for another 16 years the public health risks to all of dust disease, mental health issues due to constant noise and traffic issues is exacerbated; 	<ul style="list-style-type: none"> • Quarry can also be deemed a valuable local resource • Noted that the current and previous owners' have not complied with all conditions of consent • Council acting in good faith to ensure compliance – updated consent with contemporary conditions may assist to clarify and correct the existing situation • Concerns noted and addressed previously in this table or within the assessment report

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> - Every year for another 16 years there is a risk of a major motor accident at the intersection of Wyrallah and River Bank Roads continues; - Every year for another 16 years there is destruction of the natural environment and additional stress placed upon our protected and vulnerable wildlife; <ul style="list-style-type: none"> • Original DA was designated development because of its high risk of detrimental impact on the local amenity and the environment and this has only increased with time • Its simple really – lodge a new DA and comply with the laws as they currently stand 	
Dr Roslyn Irwin President Friends of the Koala	<ul style="list-style-type: none"> • Notes intention in the long-term is to expand the quarry laterally and assume, given evidence of koala presence on the site, this would require a new DA • Earlier submission noted Mr Santin didn't contact Friends of the Koala (FOK) prior to lodging previous s96 • However, had a lengthy meeting with Mr Malcolm Scott and Dr David Sharpe in June 2020, at which expressed dissatisfaction with the absence of informed knowledge of the use by koalas of the property • Monaltrie is an acknowledged Area of Koala Significance (AKS), and the Koala Assessment (KA) submitted by Dr Sharpe with this application supports that • Generally satisfied with the content of the report however some statements do not reflect current situation and will be referenced later • Most important outcome of Council's rejection of the first s96, speaking from FOK's perspective, is that the presence of koalas is now acknowledged; that the site meets the definition of core koala habitat and that, whilst not required given that no koala food trees are to be removed, planting 100 on the site is a positive outcome – if it occurs 	<ul style="list-style-type: none"> • That is correct – a Development Application is required for any proposed expansion of the quarry footprint • Noted • Noted • Noted • Noted • Noted the positive outcome of planting of 100 koala food trees, even though no trees are to be removed

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> • As stated in previous FOK submission Mr Santin did not comply with earlier conditions of consent and there is no reason to believe that he will if this application is approved – unless he is forced to do so • Unfortunately, Council's record in making sure DAs lodged comply with relevant legislation and ensuring conditions of consent are complied with is often not satisfactory • Compliance often seems to occur only when members of the community raise breaches with Council • Given Mr Santin's previous history the only way the community can be assured that the conditions of consent will be met is establishing a Council requirement for quarry to be inspected every 3 or 6 months until it has complied with those conditions • Leaving compliance to members of the community is unacceptable and reflects negatively on Council • The KA states the proposal does not increase the number of vehicle movements per day (VPD) whereas Quarry Plan of Management references increase of 20 VPDs to 46 on 26 days a year • The corner of River Bank Road and Wyrallah Road is a known hot spot for koalas killed by vehicles, this doubling the number of VPDs would in all probability lead to increased deaths of koalas • Whilst it is commonly stated that there is a koala breeding season, generally from September to February, and that koalas are more active between 10pm and 6am, FOK's experience suggests that both of these are changing, due perhaps to climate change. For these reasons, FOK opposes any increase in the number of VPDs 	<ul style="list-style-type: none"> • From an ecological perspective it has been identified that the historical non-compliance with conditioned vegetation related mitigation measures is problematic. It is also identified that the actual structure or wording of some conditions lead to them being difficult or not enforceable. • Restructuring of amended conditions will give enforceable conditions of consent with appropriate triggers • Council acting in good faith to ensure compliance – updated consent with contemporary conditions may assist to clarify and correct the existing situation • There has been no evidence presented to Council to implicate the quarry operation in any or all the recorded koala strikes reported to Friends of Koala • Council does acknowledge that Wyrallah Road in the vicinity of River Bank Road is a koala strike hot spot, the reported strikes do currently come via community reports to Friends of Koala. • Vehicle movements from the quarry are limited to business hours, meaning they start after dawn and finish before dusk • It is considered unlikely that the quarry operation will influence the number of koala strikes as it is understood that koala movements generally occur outside these times

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
Dr Rodrigo Diaz	<ul style="list-style-type: none"> • Quarry again applying for extension and increasing its destruction of this beautiful area and threatening the beautiful wild creatures that live there • With all of the destruction from this past year's bush fires and the death of so many lovely koalas to even consider allowing this quarry to continue in a known koala colony is just beyond belief • Dismayed at the thought of these koalas being wiped out • Lismore is so very lucky to have koalas so easily seen and has had many enjoyable visits with these beautiful creates during his times in Lismore • Visits that often felt unsafe with the huge trucks constantly driving by and now this quarry wishes to massively increase the amount of trucks allowed each day – that is so very sad • Pray this application is rejected for the sake of the Koalas 	<ul style="list-style-type: none"> • There is no increase in the average number of traffic movements from the quarry • Concerns noted and addressed previously in this table or within the assessment report
Phillip Terry Richmond Rivers Rescue	<ul style="list-style-type: none"> • Richmond River Rescue group aims to reverse the decline in the Richmond and Wilsons River catchment in northern NSW, the state's most polluted river system • One of their main concerns is run off from farms, townships and industry into the river system • Concern that the quarry being at the headwaters of a wetlands and creek system which flows into the Wilsons River is potentially polluting that system • Concern raised about studies that have been made and assurances both quarry operator and Council's own independent investigations to guarantee no further pollution to river system from this quarry • Concern focused around the impact of dust emissions, blasting vibrations and water contamination created by run-off 	<ul style="list-style-type: none"> • Condition of consent in response to feedback from EPA which sets clear parameters for water quality discharge from the Soil and Water Management System (consistent with EPA requirements for similar land use activities) • Concerns noted and addressed previously in this table or within the assessment report • The application is supported by recent water quality sampling. The results conclude that at the time of sampling the quarry activity was not impacting upon the water quality of receiving waters. • Standard conditions have been prepared to ensure performance measures presented within the technical reporting for soil and water management

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> • Quality of ground water into the Wilsons River is vitally important to the rehabilitation of the river and ensuring no further deterioration in aquatic biodiversity • Quarry blasting may result in dramatic changes in both the groundwater regime and quality of the water • Strongly oppose any extension of the quarry operations 	<ul style="list-style-type: none"> • are clearly incorporated into any subsequent consent notice. • Noted • Council is unable to comment on this statement
JV and GJ Piper	<ul style="list-style-type: none"> • Object to Santin quarry getting an extension for another 16 years as they are home all day so can clearly state that the size and quantity of trucks has increased over the years. • The noise and dust generated by this quarry is affecting their health and property values • Consider their quality of life when deciding on this application 	<ul style="list-style-type: none"> • This is not a specific planning consideration for the determination of DA's • The average number of truck movements over any one week will not increase above 15/day
Peter Hovelroud (first submission)	<ul style="list-style-type: none"> • Disappointed that no personal contact has been made by LCC staff with the residents of Monaltrie and Wyrallah to sit down and discuss the issues of concern regarding this quarry • Forced to reply to Councillors in our 4-minute speeches to zoom meetings or these written submissions, which are probably just glanced at by those who should be paying attention • In contrast, Mr Santin seems to have open access to Council staff whilst we are constantly ignored – are our rights less than Mr Santins? • Do we have less right to the land we own and live on to be governed how we wish for it to be governed? • Unaware of the operator of this quarry ever actually consulting with his neighbours and listening to their concerns • His quarry might well make HIM a lot of money, but it is us his neighbours who have to pay the price for living beside it 	<ul style="list-style-type: none"> • This is not usual practice at LCC • This procedure is consistent with all matters considered at Council's Ordinary meetings • Staff are unable to comment on this statement • The applicant attended a pre-lodgement meeting with relevant staff (and paid the required fee) consistent with Council practice • Council staff take all submissions into account in the assessment of any relevant application in accordance with the requirements of the <i>EP&A Act 1979</i> • Staff are unable to comment on relations between neighbours and quarry operator

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> • May well be too high a price to pay as silicosis is a major consideration when the amount of dust being produced by this quarry is taken into consideration • Community consultation between quarry operators and local residents has proven successful for other quarries in this state, some quarries are even welcomed by their surrounding communities • Highlights some of the points in this latest application that he considers worthy of further comment: <ul style="list-style-type: none"> - Planning report mentions no less than 6 times that it is Santin Quarry's intention to expand the quarry beyond its current foot print. It is not substantially the same as the quarry originally granted consent in 1992 - Applying to double in size by annexing Lot 3, farmland to the west of the existing quarry - Observes trucks leaving quarry with illegal uncovered loads - Concerns regarding traffic generation - Concern raised regarding fencing off the quarry and danger to livestock - The operator has had several complaints, reference to 80+ complaints - Questions the validity of the letters of support for the quarry - Damage to the physical environment from a quarry, pollution to waterways, toxic dust and silicosis referenced as dust management is negligible - LCC and Santin Quarry should be taking into consideration any future legal actions regarding claims that could arise from silica dust exposure to both staff and residents of the area 	<ul style="list-style-type: none"> • Council is unable to comment on income from the quarry • Concerns raised regarding dust and silicosis are addressed separately within the assessment report • Noted • A separate development application is required for any proposed future expansion of the quarry • The quarry footprint is not increasing as a result of the current application – it is seeking an increase in the life of the quarry for a further 16 years • Inclusion of Lot 3 for the purpose of formalising the access track to the quarry and minor encroachments will not result in any increase in the quarry footprint • Noted • Addressed separately in the assessment report • Fencing has been provided on the property and there are rock barriers at the high edge of the quarry • Addressed separately in the assessment report • Council considers all submissions in good faith • Concerns addressed separately in the assessment report • The threat of legal action is not a relevant matter for consideration

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> - Questions the validity of the Koala Assessment undertaken by Dr David Sharpe and references errors relating to trading hours / days and truck movements in the report - The road is so narrow, it is a laneway - References proposal does not include changes to current conditions of operation however application seeking increase to 46 truck loads per day - Past records of non-compliance by the quarry gives little faith in the operator doing what is required - Believes the "koala report" has been written to achieve a favourable outcome for the quarry operator - Questions the Traffic Impact Assessment accuracy and fails to acknowledge the 2015 road survey and dismisses the results of the 2020 council traffic survey - TIA favours the applicant by overstating the available capacity of the road - Raises concerns for school children and cyclists as 20 cyclists were killed on NSW roads in 2020 - No posted speed limit along River Bank Road - Increase in peak traffic to 46 per day puts unacceptable pressure on road network - Provides alternative suggestions in regard to traffic on River Bank Road: limit of 15 loaded trucks per day 9am to 3pm Monday to Friday; suggests a depot in an industrial neighbourhood away from residents where stockpiles of product can be delivered; place entry to quarry directly to Wyrallah Road - Concerns regarding cost to ratepayers of road maintenance resulting from quarry trucks on River Bank Road; compliance activity; road safety risks, environmental pollution; poor quarry management; 	<ul style="list-style-type: none"> • The koala assessment report has been verified by Council's Ecologist • Concerns addressed separately in the assessment report by Council's Development Engineer • Council has no record of cyclist fatalities within this area • A customer request for speed limit signs will be made • Concerns addressed separately in the assessment report by Council's Development Engineer • It is unlikely that a site for a depot, located away from residents, can be found within the Lismore LGA • This is re-locating the problem away from his property • Noted

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<p>impact on property values; health impacts to neighbouring residents of lung disease from toxic dust chemicals</p> <ul style="list-style-type: none"> • Reference made to 2015 Council report regarding traffic issues / impact • Has the right to be free of a nuisance caused by an industrial use of farmland as he made due diligence enquiries which he purchased his property and saw there was a consent with conditions that controlled dust and noise nuisances and understood the quarry was to close in 2020 • The area is very different that when consent was given in 1992 as the size of the trucks has increased dramatically • Knowledge of silica dust and the dangers of silicosis is very different than three decades ago • Fears that those who registered support for this quarry would change their minds if they considered the long-term impacts of the silica dust • Includes photo showing dust generated at the quarry most days and references to silica, often referred to as "quartz", very common in Monaltrie Basalt 	<ul style="list-style-type: none"> • Concerns addressed separately in the assessment report • The application referenced was withdrawn by the applicant and was seeking to increase the amount extraction per annum from 40,500 tonnes to 79,500 tonnes (almost double), as well as the life of the quarry for another 20 years • The quarry is a permissible use in the RU1 Primary Production zone and is supported by Council's <i>Local Strategic Planning Statement</i> • Appears not fully informed then, that the quarry would close in 2020, when property purchased, as the quarry has been in operation since 1993 & had/has lawful options • Concerns addressed separately in the assessment report
Glendenning Legal for Monaltrie Area Community Association Inc	<ul style="list-style-type: none"> • Modified consent has lapsed and cannot be modified • Not "substantially the same" development – s4.55(2)(a) of the <i>Environmental Planning & Assessment Act 1979 (EP & A Act 1979)</i> • Hours of operation have been modified from the original consent to include Saturday, additional 30 minutes per day; no limit on trucking operations on eastern section of River Bank Road • Increase in loaded truck movements from 20 per day to 46 per day • Internal access road has never been sealed and results in persistent complaints about dust emissions 	<ul style="list-style-type: none"> • Concerns raised are addressed separately in the assessment report

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> • Modified consent seeks to include land known as Lot 3 DP 702537 • Council has no power to modify the Modified Consent so that it applies to Lot 3 DP 702537 • Adverse impacts of the quarry operations experienced by members of the Monaltrie community • Council's failure to enforce the <i>EP & A Act 1979</i> • Reliance on the "Scott Report" as submitted with the application documents 	
Peter Hovelroud (second submission)	<ul style="list-style-type: none"> • References the 2015 Report on Section 96(2) DA92/523 Modification of Santin Quarry • Concerns raised regarding the assessment by Council's Development Engineer relating to traffic impact • Questions why Santin quarry is still allowed to operate when his consent has expired • Questions why Santin Quarry has been allowed to use River Bank Road and Wyrallah Road as a northbound route • Why has Santin Quarry been allowed to use Truck + Dog Semi Trailers for deliveries when it appears, they are only approved for up to 18t trucks • 47 pages of attachments included with the submission 	<ul style="list-style-type: none"> • The application referenced was withdrawn by the applicant and was seeking to increase the amount extraction per annum from 40,500 tonnes to 79,500 tonnes (almost double), as well as the life of the quarry for another 20 years • This would have resulted in an unacceptable traffic impact • These issues can be addressed by the issue of an amended consent
John Ryan	<ul style="list-style-type: none"> • 93 years of age and have lived at this address for approximately 10 years • Has come to his attention his name has been attached to a formal objection against the quarry operated by Santin Quarry Products • He has known Michael Santin for the last 40 years and have no real issues with the operation of the quarry • Acknowledges it generates traffic along River Bank Road however recognise that the quarry has operated for many years in this location and it provides an important resource for the local area. 	<ul style="list-style-type: none"> • Comments in support noted and name removed from the correspondence as submitted by Mr Peter Hovelroud

ATTACHMENT 2 - SUBMISSIONS TABLE

Name of Submitter	Summary of Issues Raised	Planning Officer comments
	<ul style="list-style-type: none"> • Also abuts Wyrallah Road which carries far higher volumes of traffic than River Bank Road • He was shown a proposed letter to Council by Mr Peter Hovelroud regarding his concerns surrounding the quarry • This was discussed in a neighbourly way • Formally request that his name be deleted from the letter provided to Council dated August 23, 2020 in relation to the quarry 	
Fishburn Watson O'Brien The Law Specialists	<ul style="list-style-type: none"> • Refers to Glendenning Legal's letter of 26 August 2020 • Understand the basis of the objection is that their client's development consent has lapsed and cannot be modified • Understand Council has obtained its own legal advice, and does not agree to Glendenning Legal's view • Draws attention to recent amendments to the <i>EP & A Act 1979</i> made in the <i>COVID-19 Legislation Amendment (Emergency Measures – Miscellaneous) Act 2020</i>. • These amendments extend the lapsing periods for development consents under the <i>EP & A Act 1979</i> where those consents would otherwise have lapsed • New s4.53(1)(c) of the <i>EP & A Act 1979</i> provides that a development consent lapses 2 years after the date on which development consent would otherwise have lapsed if the development consent commenced operation before, and had not lapsed, as at 25 March 2020 • Accordingly, even if their client's consent were otherwise to have lapsed in August 2020, which we dispute, the amendments now save that consent from lapsing until August 2022 • Therefore, the Modification Application is capable of being granted consent 	<ul style="list-style-type: none"> • Comments noted in support of legal position



100 RIVER STREET, LISMORE, NEW SOUTH WALES 2480

7109 - Peer review s4.55 - DA92.523

21 September 2020

The General Manager
Lismore City Council
PO Box 23A
LISMORE NSW 2480

Attn: Mr Chris Watts

Dear Chris

re: **Section 4.55(2) Modification to extend the life of a quarry approved by DA5.1992.523.3**
Lot 4 DP 701527, No. 72 River Bank Road, Monaltrie

I refer to recent communications in respect of the subject matter and confirm that I have undertaken a peer review of the Development Assessment Report (TRIM Record No. BP20/686:DA92/523-06) which has been prepared by Council's Development Assessment Officer (Planning) in respect of the subject matter, that is to be considered by Council at its Meeting on the 13th October 2020,

I have also accessed and reviewed the following:

- "Attachment 2 – Submission Table" (NB: I have not read each submission contained in Record No. ED20/21906 "Combined Submissions – 72 River Bank Road Monaltrie" as posted on Council's DA Tracking Portal. In considering this application, have relied on Council's Planning Officer's summary of the submissions as provided in "Attachment 2 – Submission Table") – received via email Council
- "Draft Conditions DA92/523 (Option 1) – Extension of the life of the Quarry at 72 River Bank Road, Monaltrie" – received via email from Council
- Planning Report "s4.55(2) Application DA No. 1992/523 – Modifications to consent continuation of Riverbank Rd Quarry – Lot 4 DP 701527, 72 Riverbank Rd Lismore" (dated 1 July 2020) – Malcolm Scott, Consultant Town Planner – posted on Council's DA Tracking Portal
- Council's legal advice in respect of the proposed modification – provided via email

BALLINA
45 River Street
PO Box 20
BALLINA NSW 2478
02 6686 3280

ARDILLPAYNE.COM.AU
info@ardillpayne.com.au
abn: 51 808 558 977

GUNNEDAH
Germane House
285 Conadilly Street
GUNNEDAH NSW 2380
02 6742 9955



As correctly referenced in various items of correspondence, Santin Quarry Products (SPQ) cannot apply for a review of determination pursuant to s8.2 of the *EP & A Act 1979* due to the fact that the original DA comprised designated development [per s8.2(2)(b)]. The applicant has advised that SPQ is *“..lodging a 2nd application in a sincere attempt to avoid litigation.”*

Having reviewed the assessment report and the above, I am of the opinion that there has been a reasonable and comprehensive assessment of the s.4.55 application. The report appears to have addressed all relevant statutory planning provisions (particularly Section 4.55(2) of the *EP & A Act 1979*), and has duly considered and reported on the likely environmental impacts/consequences and public interest of the proposed modified development. The report has also provided a summary of the issues raised in the letters of support and objection and has addressed the issues raised therein.

From a statutory planning perspective, there are two primary considerations in this matter, being whether or not the proposed modification is:

- such that satisfies the “test” pursuant to Section 4.55(2)(a) of the *EP & A Act 1979* and whether the consent authority is *“..satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)”*
- able to be considered having regard to the terms and conditions of the existing consent, and in particular Conditions 2 and 3 which limit the term of extractive operations at the quarry

As articulated in the Planning Report (Malcolm Scott, 1 July 2020), the proposal involves:

- extending the operational life of the quarry for a further 16 years – to the 12th May 2036
- no changes to the key operational characteristics of the quarry as approved by DA 1992/523 (as amended) including:
 - the limit or ‘footprint’ of the extraction area
 - the approved annual rate of extraction
 - the existing depth of extraction
- including adjoining Lot 3 DP 701527 into the description of the land to which the consent relates (which is now owned by Mr Santin and contains part of the existing internal access road and storage area)
- deleting conditions that require the land approved to be quarried to be fenced
- amending conditions relating to the sealing of the whole of the internal access road
- amending conditions relating to methods of haulage and weight of loads

As detailed above, the current modification proposal differs significantly from the prior modification proposal dated 1st October 2015, which contained three fundamental component parts which at that time involved:



1. extending the life of the quarry by 20 years – current approval allows quarrying for a 25 year period with quarrying to cease in 2020 – the proposed extended life would result in quarrying until 2040
2. increasing the rate of extraction from 40,500 tonnes/annum to 79,500 tonnes/annum
3. modifying the approved finished profile of the quarry (within the same approved extractive footprint) to source of the additional resource

It was considered during the assessment of the above that the nature and quantum of all of the component parts were such that the modification did not satisfy the “substantially the same” test.

In terms of the two primary planning considerations referenced above, I am of the opinion that Council is able to consider and grant consent to the proposed modification, having regard to the below:

- the provisions of *Section 4.53 – Lapsing of consent* of the *EP & A Act 1979* are of no relevance to the proposed modification due to the fact that existing on the land is an extractive industry that was lawfully commenced and has been operating under the terms and conditions of a valid development consent (being DA 1992/523 as amended)
- the term “lapse” has a meaning as per s4.53 and the modification does not relate to or involve a consent that has “lapsed”, but relates to changes to conditions on that consent that limit the “life” of the quarry
- as per the legal advice that I have been provided with (and having regard to case law referenced therein), it appears that a development consent that has “expired” in accordance with relevant conditions, is able to be modified in a manner that allows it to recommence (via the amendment or deletion of those conditions of consent)
- if Council is satisfied that the quarry operational consent expired on the 12th May 2020 and that the over-arching consent expires 9 months after that date (being the 12th February 2021), then it appears that it is open to Council to accept and consider an application to modify the terms and conditions of that consent
- notwithstanding that the proposed modification will extend the life of the quarry, there are no proposed changes to the quarry in terms of extractive operations/practices, extractive footprint, extraction rates, total extractable amount of resource, haulage routes, traffic generation etc and thus no new or changed operational impacts on the natural or man-made environment
- the environmental impacts and consequences of the existing operations (and thus those that will be experienced during the extended “life” of the quarry) are known and are able to be further controlled, mitigated and monitored by the amendment of existing conditions and the inclusion of new conditions of consent, which are consistent with contemporary consent conditions for extractive industries
- having regard to the single main issue of extending the “life” of the quarry with no other operational changes, I am of the opinion that the operation of the quarry for an extended period of time is reasonable in this context and is considered to be such that would pass the “substantially the same” test
- the amended and new conditions will provide Council with higher levels of control, reporting and regulation in respect of the continued operations of quarry which include a requirement for annual audits of operations consistent with the approved Operational Plan of Management



(inclusive of the environmental, noise, soil and water and rehabilitation management plans and consent conditions) and new blasting/overpressure/vibration controls

Should you have any questions in respect of this matter, please contact me on 6686 3280 or info@ardillpayne.com.au.

Yours faithfully



Paul Snellgrove

ARDILL PAYNE & PARTNERS

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Report

Subject	DA19/438 - 658 Ballina Road - Subdivision to create 16 Lots
TRIM Record No	BP20/695:DA19/438
Prepared by	Development Assessment Officer - Planning
Reason	Called up to council for determination.
Strategic Theme	Our built environment
Strategy	Our built environment is managed and enhanced to meet the needs of our growing community.
Action	Ensure new development enhances the area in which it is located.

Executive Summary

A Development Application (DA) has been lodged for the subdivision of one (1) lot to create 16 residential allotments together with a residual parcel to be utilised for stormwater detention.

The proposed development comprises; associated public road and infrastructure services, bulk earthworks, vegetation management works and creation of a Koala Movement Corridor.

If approved, the proposal will afford an extension of Greenwood Driveway connecting to the existing sections of Greenwood Drive in the North and West.

The pertinent issues arising in the assessment process relate to the proposed removal of koala habitat, stormwater and groundwater treatment and the lot sizes. The latter being a departure from the current subdivision pattern.

The application has been referred to Council for Determination following two Councillors request in accordance with Council policy.

The recommendation of this report is approval subject to draft conditions.

Recommendation

That Development Application No. 2019/438 for the subdivision of one (1) lot to create 16 residential allotments and a residual parcel for stormwater detention, associated public road and infrastructure services, bulk earthworks, vegetation management works and creation of a Koala Movement Corridor, be approved subject to the imposition of draft conditions in Attachment 3.

Background

The allotment has been the subject of a previous application for subdivision being DA2018/401 - *Subdivision (to create 17 residential lots) and associated road works, earthworks, vegetation removal and civil works*, received 15 October 2018 and later withdrawn 18 January 2019.

This was a result of unresolved issues regarding the proposed Ballina Road access, lack of reporting and proposed mitigation for the removal of koala food trees, plus insufficient stormwater management and civil engineering plans.

Subsequently, a pre-lodgement meeting was held on 20 August 2019, followed by the subject application being submitted on 5 December 2019.

A request for additional information was sent 10 January 2020 seeking amendments to the proposed civil works and stormwater treatment devices. Further information was also sought on koala habitat assessment, to be addressed in accordance with the *Lismore Comprehensive Koala Plan of Management* (CKPOM) and other ecological issues to be addressed in accordance with *Biodiversity Conservation Act 2016 (BC Act)*.

The subject site contains vegetation proposed to be removed identified by the Biodiversity Values Map because of its ecological value. The proposed removal of this vegetation triggers the Biodiversity Offset Scheme (BOS) resulting in the requirement of the applicant to submit a Biodiversity Development Assessment Report (BDAR) in accordance with the *BC Act*.

The first draft of the BDAR submitted was required to be amended and resubmitted as requested by *Planning Industry and Environment – Biodiversity and Conservation* on 28 January 2020. Multiple amendments and requests by council of the applicant to provide purposeful information was conducted therefrom, but in particular between March & June 2020, centralised on the issues of ecology and engineering.

On 11 June 2020, a site meeting was conducted to go over some final considerations, resultant in a final redesign of the development.

Description of Proposal

Proposed is the subdivision of Lot 4 DP 406893 for the creation of 16 residential lots including associated public road network and infrastructure services, bulk earthworks and vegetation management works with the lots ranging in area from 461m² to 1,318m².

A single dwelling is currently located on the site, of which is proposed to be retained on one of the future lots.



Figure 1: Stage Plan

Lismore City Council

Meeting held 13 October 2020 - DA19/438 - 658 Ballina Road - Subdivision to create 16 Lots

The development is proposed to be undertaken over 4 stages. For full reference to the proposed development, please refer to the *Working Document DA Plans* - contained within **Attachment 1** of this report.

Key Issues for Consideration

Ecology – proposed removal of;

- 7 sub-adult Kola Food Trees
- 0.3 ha of Forest Red Gum grassy open forest and
- 0.2 ha of White Booyong - Fig subtropical rainforest.

Impact on habitat for three Commonwealth listed threatened species being;

- Grey-headed Flying-fox
- Hairy Jointgrass
- And removal of a mature Rough-shelled Bush Nut tree

Stormwater – treatment of and mitigation for quality and quantity.

Lot size – The size of the proposed lots is a departure from the existing subdivision pattern being smaller than that existing.

Description the site

The development site consumes the entirety of Lot 4 DP 406893 and is approximately 1.54 ha in size. The Ballina Road frontage is south of the site, with Greenwood Drive currently terminating at the north eastern boundary of the allotment.

The development site has a northern aspect, with a slope which varies from relatively gentle in the northern part of the site to moderately steep in the southern section. The average grade of the site in its current configuration is 15%. A minor drainage line (stream order 1) crosses the northwest corner of the site and directs water into a small concreted reservoir.

The development site has historically been used for farming, with the entire site previously cleared of native vegetation to establish exotic fruit and nut trees including Mango, Pecan and Bananas. The majority of site is currently vegetated with exotic pasture grasses, while the remainder consists of degraded native vegetation. A fringe of forested vegetation along the western edge is contiguous with a larger block of native vegetation to the west.

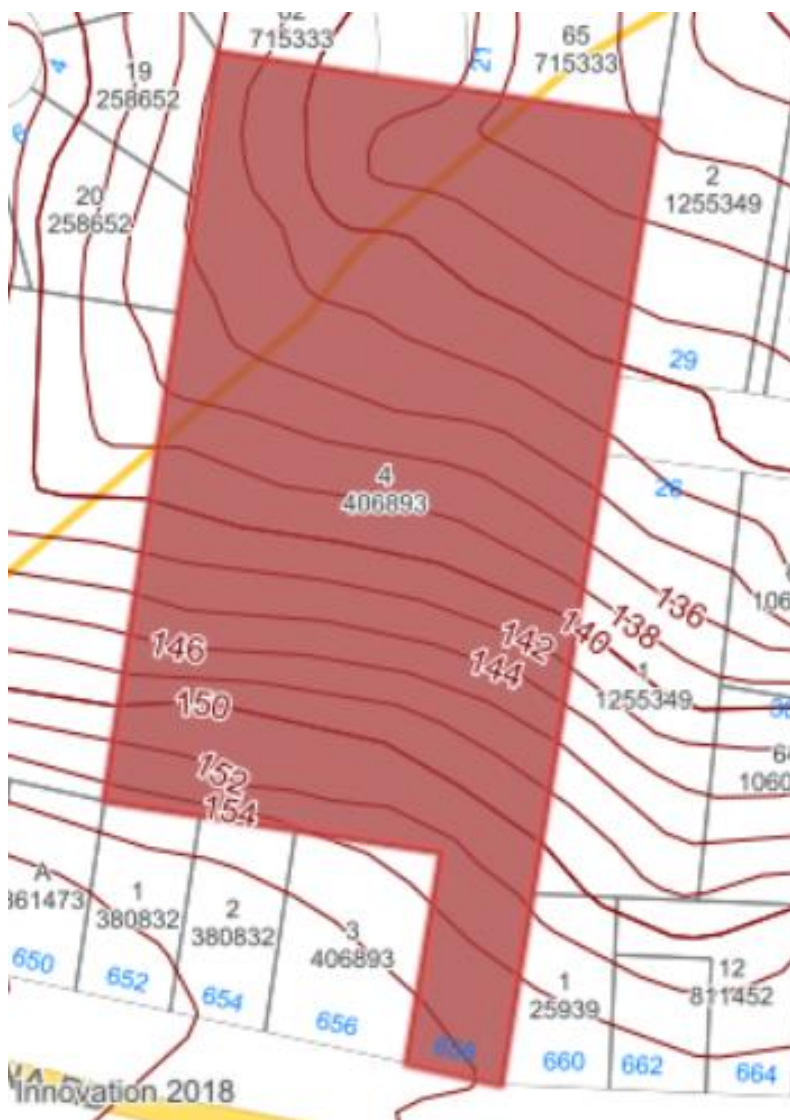


Figure 2: Topography of the site with drainage line in yellow

Description of Locality

The locality is urban in character with undulated leafy residential streets. The residential lots generally range in size from 600 m² to 1300 m² with the average lot notably 800m². The existing housing stock predominately contains detached brick and timber dwelling houses, with a peppering of dual occupancy, multi dwelling developments.

To the north there are larger sections of Deferred Matter land (3 – 5 ha) currently zoned 7(b) - Environment Protection (Habitat) under *Lismore Local Environmental plan 2000*. The adjoining property to the west being 9 Hillcrest Avenue is a large residential lot (8745 m²) containing native vegetation.

Locality Map



Figure 3: Locality Plan

Statutory Controls

Lismore Local Environmental Plan 2012

Zoning – R1 General Residential

Heritage Item- No

Flood - No

Section 64 contributions - Yes

Section 7.11 contributions - Yes

Tree preservation order - Yes

Bushfire Prone Land - Yes

Mapped Primary Koala Habitat - Yes

Biodiversity values map trigger- Yes

Drinking Water Catchment- Yes

Integrated Development- Yes (NSW Rural Fire Service)

First order stream- Yes (x1)

Land identified as containing High Environmental Value- Yes

State Environmental Planning Policy No 44—Koala Habitat Protection

State Environmental Planning Policy No 55 – Remediation of Land

State Environmental Planning Policy (Infrastructure) 2007

Policy Controls

Lismore Development Control Plan

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

Lismore City Council

Meeting held 13 October 2020 - DA19/438 - 658 Ballina Road - Subdivision to create 16 Lots

5.2.4 Naming of New Roads

5.2.10 Equity in Access and Provision of Facilities to Public Spaces

5.2.29 Development Application Determination

Internal Referrals

Ecology

Review of Desktop Assessment

Description of the study area

The description of the study area in the Biodiversity Development Assessment Report (BDAR) includes details of the types, locations and conditions of native vegetation and animal habitats in the study area. The study area, subject site and relevant habitat features were displayed on a map. The description of the study area is adequate.



Figure 4: Vegetation mapping

List of threatened species, populations or ecological communities, or their habitats known or likely to occur

A desktop assessment of threatened flora and fauna species, populations or ecological communities, or their habitats known or likely to occur within the locality was conducted. The spatial extent of the locality was 10kms and was adequate.

The desktop assessment identified 2 threatened plant species recorded in the locality of the subject site. In addition, the desktop assessment identified 60 threatened species & 2 Endangered ecological

Communities and the BAM calculator BC Act 2016 predicted numerous endangered species and endangered ecological communities to have the potential to occur on or near the subject site, full details of listed entities at Appendix C of the BDAR.

Review of Flora and Fauna Field Survey Methods

Review of Flora Field Survey Methods

- The details of the flora field survey methods employed was sufficient.
- The choice of flora field survey methods and the extent of the survey was justified.
- The constraints to the flora field survey methods were noted.
- Given size of the subject site, the flora field survey methods are reasonable and appropriate.

Review of Fauna Field Survey Methods

- The details of the fauna field survey methods employed was sufficient.
- The choice of fauna field survey methods and the extent of the survey was justified – SAT survey for Koala.
- The constraints to the fauna field survey methods were not noted.
- Given size of the subject site, the fauna field survey methods are reasonable and appropriate.

Review of Flora and Fauna Assessment Findings

Flora Assessment Findings

- The flora (BAM) survey found both native and exotic plant species on or near the subject site.
- The vegetation present on the site was found to be small patches of White Booyong Fig Subtropical rainforest and Forest Red Gum grassy open forest of the Coastal Ranges of NSW North Coast with medium to low integrity
- The targeted survey for threatened species found 1 *Macadamia tetraphylla* and Hairy Joint Grass was presumed present due to constraints of the survey effort.
- The threatened species *Arthraxon hispidus*/Hairy Joint Grass was presumed present due to the season in which the survey was conducted

Fauna Assessment Findings

- The fauna survey found 0 native and 0 exotic fauna species on or near the subject site.
- The targeted survey for threatened species found no evidence of Koalas on the site.
- No threatened native animal or invertebrate species were found to occur on the subject site.

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

An assessment of the predicted ecosystem credit species and species credit species occurring or likely to occur within the study area was conducted. The assessment was considered to be adequate.

For each threatened species, population of ecological community, the assessment included an evaluation of the:

- Habitat(s) present within the study area
- Condition of the habitat for the identified threatened species, populations or ecological communities identified above (e.g. foraging substrate; availability of tree hollows; density of ground cover; presence/absence of caves, overhangs, crevices, rock outcrops; presence/absence of permanent or ephemeral water bodies)
- Whether the habitat(s) are connected with similar habitat(s) occurring outside the study area
- Extent of interconnectedness and distribution of habitats within the region
- Nature and extent of disturbance from natural and/or anthropogenic causes that already exist within the study area

Assessment of Significance/ Biodiversity Assessment Report BDAR (see attachment 4)

A BDAR was completed and submitted:

- The development does not propose to avoid or minimise impacts to biodiversity
- The credit retirement requirement for the proposed impact is tabled below:

Ecosystem Credits	Area of impact ha	Number of credits to be retired
841-Forest Red Gum grassy open forest of the coastal ranges of the NSW North Coast Bioregion	0.3	2
1302-White Booyong - Fig subtropical rainforest of the NSW North Coast Bioregion	0.2	0
Species Credits	Area of impact ha	Number of credits to be retired
Arthraxon hispidus/Hairy Joint Grass (error in BAM calculator accepted)	0.1	0
Macadamia tetraphylla/Rough-shelled Bush Nut	1.0	2

- Impacts on areas of vegetation integrity scores ≤ 17 do not require offsetting; this applies to some of the vegetation assessed on the subject site.
- Impacts on habitat for threatened species with vegetation integrity scores ≤ 17 do not require offsetting
- Prescribed impacts, Clause 6.1 *Biodiversity Conservation Regulation 2017* does not generate a credit retirement requirement. Efforts to avoid and minimise impacts through design (section 8.2 of the BAM) must be documented and justified. Analysis should demonstrate that the final design is as a last resort.
- The proposed design layout and BDAR do not adequately comply with avoid and minimise consideration of the prescribed impacts listed below, as set out in the BAM
 - impacts of development on the connectivity of different areas of habitat of threatened species that facilitates the movement of those species across their range
 - impacts of development on movement of threatened species that maintains their life cycle
 - impacts of vehicle strikes on threatened species or on animals that are part of a TEC

These impacts are to be mitigated via conditions of consent and measures to be undertaken as listed in the report recommendations.

VEGETATION and LANDSCAPE PLAN MANAGEMENT PLAN

Due to the relatively small scale of the development an integrated Landscape and Vegetation Management Plan will be required to effectively ensure compliance with ecological requirements and landscaping while being mindful of the bushfire requirements set by the NSW RFS.

Water and Sewer

This application seeks to obtain approval for the creation of a subdivision of 16 Lots with a residual parcel dedicated for Stormwater management and proposed Lot 1 containing the original existing dwelling. The proposal can be accommodated with water supply and sewerage services.

WATER REQUIREMENTS

Water supply works are required by extension of the existing reticulated water mains to form a link between the two existing dead ends of Greenwood Drive. Proposed Lot 3 & 4 to be connected to Ballina Rd mains. Works subject to application and approval by Council prior to issue of a Subdivision Works Certificate. Refer to conditions.

SEWER REQUIREMENTS

Several sewerage mains are in close proximity to the development including a trunk sewer main along the eastern boundary. Sewerage services will need to be extended from the existing infrastructure.

Works subject to application and approval by Council prior to the issue of a Subdivision Works Certificate. Refer to conditions.

LEVIES

Section 64 levies do apply to this development, a total of 15ET water and 16ET sewer to be collected over four (4) stages equating to a combined total of \$344,772. Further detail is provided under the Section 64 section of this report.

Environmental Health

CONTAMINATED LAND

See comment under SEPP 55 section of this report.

The subject site is located within 200m of McDermotts Cattle Dip Site at 1 Gordon Blair Drive. Further discussion is provided in the Buffers section.

NOISE IMPACTS

It is not anticipated that noise from the operations of this development will create offensive noise. There is the potential of offensive noise during the constructional phase of the development. As a precaution, a condition has been imposed to protect the amenity of the area during the constructional phase.

ON-SITE SEWAGE MANAGEMENT

The subject site is serviced by council's reticulated sewerage system. The existing dwelling is currently an OSMS and is to be connected to the reticulated sewerage system and the existing OSMS to be decommissioned.

ENVIRONMENTAL IMPACTS (Amenity)

Standard conditions have been imposed to protect the amenity of the area.

STORMWATER / TREATMENT DEVICES (Quality)

The management of stormwater for this development is required to comply with council's DCP *Part A, Chapter 22 – Water Sensitive Design*. The chapter sets out benchmarks for design and performance outcomes for developments, including sub-divisions. To support the proposed development, a revised Stormwater Management Plan has been prepared by CLA Consultants (Ref: 17329, Rev C, dated 28 April 2020).

Roof water from the individual allotments is proposed to discharge into 3kl rainwater tanks. Overflow from the tanks, in addition to 50% of the roof area and 100m² ground stormwater will discharge into a small on lot detention tank. Inside the tank will be a proprietary treatment cartridge (SPEL Filter). This treated flow will be collected and discharged to a single bio-retention filter located in the north-eastern corner of the site.

MUSIC modelling has been used utilising the SPEL Filters and Bio-retention filter to meet the water quality criteria as specified in council's DCP Chapter 22. This report demonstrates that the proposed stormwater management system can meet the water quality requirements of council's DCP - Chapter 22.

To construct the proposed stormwater system, a Sec 68 application will need to be submitted to council and approved prior to the issuing of a construction certificate.

BUFFERS

Council's DCP Chapter 11 Buffer Areas requires investigation for any development within 200m of a dip site to determine if the subject land is impacted by chemicals.

This development is located within the 200m investigation zone of McDermotts cattle dip site. The dip site has been partially remediated and is within the vicinity of 120m from the development site, on the corner of Ballina Rd and Gordon Blair Drive.

Contaminants of concern identified with the former use of the dip site include arsenic and DDT. The submitted *Contaminated Land Assessment* (CLA) did not identify any chemicals associated with dip site use above the HIL's for residential use. As a result, it is unlikely that any residual chemicals from the dip site are impacting upon the subject site.

Development Engineer

The proposed development includes the extension of Greenwood Driveway connecting to the existing sections of Greenwood Drive in the North and West. The extension of Greenwood Drive will maintain the dimensions of the existing sections of Greenwood Drive for continuity and in this regard the extension will meet the requirements of a local street. As Road A services minimal properties, it has been designed in accordance with the access place provisions of DCP Chapter 5A.

VEHICULAR ACCESS

Given the design of the development (steep lot frontages in some instances) the following vehicular accesses and driveways will need to be constructed:

Stage 1

- 3.0m wide access and driveway to service lot 4
- construct a vehicular access and driveway from the end of Greenwood Drive to the existing dwelling on proposed lot 1.

Stage 4

- 3.0m wide access and driveway to service lot 5
- 5.5m wide access and 4.0m wide driveway to service lots 6 and 7
- 6.0m wide access and driveway to service lots 1, 2, 8, and 9

These accesses and driveways will need to be sealed for the full length and comply with the Northern Rivers Development and Design Manual. Appropriate rights of carriageway will also need to be established for the driveways that are shared. These will be conditioned to be constructed prior to the release of the Subdivision Certificate.

SIGHT DISTANCE (Visibility)

The road verges will be constructed to be compliant, resultant in sight distance for each property being adequate for any future access construction.

TRAFFIC IMPACT

The additional 15 lots created by the development will generate approximately 91 vehicle trips per day. The surrounding road network has the capacity to cater for the increase without being adversely affected.

PEDESTRIAN SAFETY

In accordance with the DCP the development will be providing 1.5m wide pathways along the 2 new roads constructed with the development.

PARKING MANOEUVRING

As the development will be in a low speed urban environment, reversing out of the properties onto the road network will be a safe compliant maneuver.

STORMWATER (Quantity)

The applicant has demonstrated through the use of an underground detention tank on each allotment and a detention basin that the post development stormwater flows from the site are less than the pre-development condition.

Table 2 - Stormwater Drainage Impacts

Pre - Development		Post - Development		Impacts	
Node	Flow Rate	Node	Flow Rate	Flow Rate	%
	m ³ /s		m ³ /s	m ³ /s	
1 Year ARI	0.236	1 Year ARI	0.231	-0.005	-2.12
10 Year ARI	0.517	10 Year ARI	0.483	-0.034	-6.58
100 Year ARI	0.919	100 Year ARI	0.893	-0.026	-2.83

The latest plans provided by the applicant have shown *inter-allotment drainage* (IAD) within the road reserve and this will not be an acceptable solution. As there are other solutions for the IAD to be located outside of the road reserve it will be conditioned that the *Storm Water Management Plan* (SWMP) be revised prior to the *Subdivision Works Certificate* SWC to address this. It will also be conditioned that the SWMP will need to consider the existing properties located along Ballina Road that adjoin the site.

FLOODING (bulk earthworks, overland flow)

The site is not mapped as being affected by the 1% AEP flood event.

Finance

Comments not required for this application.

Integrated Referrals

Rural Fire Service

The application was referred to the New South Wales Rural Fire Service (NSW RFS) on 20 December 2019 seeking general terms of approval for the subject Integrated Development Application. The NSW RFS issued General Terms of Approval, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, on the 31 January 2020 with conditions that are included in the draft conditions of consent. (GTA's)

External Referrals

Planning Industry & Environment – Biodiversity and Conservation Division (BCD)

BCD was consulted on multiple occasions regarding the environmental assessment process undertaken for this development including the Biodiversity Development Assessment Report (BDAR) and South-east Lismore Koala Plan of Management and **agreed with the final biodiversity credit requirement calculated**. For further commentary see the *SEPP 44 – Koala Habitat Protection and Biodiversity Conservation Act 2016* sections of this report.

Notification / Submissions

The application was notified to adjoining and surrounding property owners and advertised in the Local Matters publication in accordance with the provisions of *Community Consultation Plan* for the Notification and Advertising of Development Applications.

A total of 8 submissions objecting to the proposed development were received as a result of the notification and advertising. **Attachment 2** of this report provides a detailed summary of all the submissions and assessment comments.

The following is a summary of the main points raised in the submissions;

The proposed block sizes are not in keeping with the surrounding area.

In current times, smaller residential lot sizes are being encouraged by state and federal government as is reflected in the Standard Instrument LEP that promotes the 400m² minimum lot size for the General Residential zone.

The proposal complies with the minimum lot size as prescribed by the *Lismore Local Environment Plan 2012* (LLEP) and the standard instrument LEP. The lot sizes proposed are in excess of 500m² apart from two lots each of 461 m². Most of the lots (apart from two 461 m² lots) can contain a dwelling envelope of 12 x 15m as required by the DCP Chapter 5A (further comment on this is contained within the DCP table of this report).

The trend towards smaller lot sizes in urban areas is the principal to prevent the expansion of urban sprawl. This trend is interconnected with seeking opportunities for infill development and for residential development.

Objectives of the *Environmental Planning and Assessment Act 1979* are to promote the orderly and economic use / development of land and to promote the good design and amenity of the built environment. This is consistent with the objectives of the R1 General Residential zone which intends to provide for a variety of housing types and densities for the housing needs of the community. The efficient type of development reduces demand on infrastructure, reduces demand for new greenfield areas and by providing more supply may improve affordability.

Stormwater and groundwater

The preliminary Geotechnical Report did not encounter groundwater in any of the boreholes at the time of drilling, however noting groundwater levels can be seasonal and fluctuate during and after heavy rainfall events.

Further geotechnical reporting is required as a condition of consent to be undertaken prior to issue of a *subdivision works certificate*. This report will include certification that adequate drainage has been proposed to ensure the suitability and stability of residential development.

Development guidelines require the proposed development to manage stormwater drainage with post development flows being of a better quality and reduced quantity than predevelopment. This has been demonstrated through the proposed Stormwater Management Plan modelling.

Stormwater management is to be achieved by on site detention and surface water from roofs and other hard surfaces being piped away to a suitable discharge point. The proposal provides for stormwater to be detained/dissipated on each lot.

Major storm flows are conveyed across the land and discharged to the proposed detention basin at the North Eastern corner of the site. The stormwater management plan also allows for the attenuation of increased flows that may be caused by the addition of hard stand area.

The increased amount of traffic during construction and ongoing use causing safety and other concern

The development is anticipated to generate less than 100 daily traffic movements, or 6 movements per lot per day. It is proposed to use the existing road network, creating a through road with Greenwood Drive, which was the original adopted design of this road.

There are no proposed additional intersections for Ballina road with the current application for two lots having direct access, which is a departure from the 4 that was originally proposed. Council's Development Engineer reports the surrounding road network has the capacity to cater for the said traffic without adversely impacting current circumstances or creating significant safety issues.

Wildlife/koala

See the *SEPP 44 – Koala Habitat Protection and Biodiversity Conservation Act 2016* sections of this report.

The planned “new road”

The “new road” has been included at the request of the NSW rural fire service to provide a turning facility for fire fighting vehicles in accordance with the current legislation.

There is no allowance for green space or public areas.

LLEP 2012 does not have a requirement for the provision of public open space, leaving the provision instead to Council's DCP. ‘*Pocket parks*’ have notably recently been less favourable outcomes, primarily because of on-going maintenance costs, reinforced by recent small parks re-zonings & sales.

Notwithstanding, DCP Chapter 5A, *Urban Residential Subdivision* requires playgrounds to have a 500m catchment radius for residential lots, of which the current playground at the corner of Greenwood Drive and Gainsborough Way to the subject land's east, is less than 500m from the subject land.

Provision of footpaths and cycleways.

In accordance with the DCP the development will be providing 1.5m wide pathways along the 2 new roads constructed with the development.

Loss of amenity sustained by adjacent properties.

The land has been zoned for residential development in excess of 20 years. Many of the adjacent residents would most likely have been familiar with this zoning when they bought their properties and/or built their homes. An expectation may have been held that the subject land would be developed at some stage in the future.

Council has an obligation to consider the development of the land in accordance with the relevant Local Environment Plan and DCP requirements. Any noise experienced will be limited to that experienced in any subdivisional context both during construction and thereafter.

Bushfire and other emergencies

A bushfire report was prepared as part of the DA submitted to Council. Based on that report, the Rural Fire Service has subsequently advised it has no objection to the proposal.

Consideration

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, are assessed under the following headings:

Lismore Local Environmental Plan 2012

Zone, Definition and Permissibility

The proposed development is permissible as subdivision within the R1 General Residential zone under the provisions of *Lismore Local Environmental Plan 2012* (LLEP).

Zone objectives and Zoning Control Tables

Having regard to the provisions of LLEP, it is considered that:

- (a) The proposed development is in accordance with clause 2.3 and promotes the specific aims of this plan, the objectives of the zone and the objectives of the controls, and
- (b) The proposal is consistent with the objectives of the zone particularly - *provides for a variety of housing types and densities and provides for the housing needs of the community.*

As such, consent to the development may be granted.

Part 2 – Permitted or Prohibited Development

1. Subdivision – consent requirements (cl 2.6)

Consent is sought by way of this development application

Part 4 – Principal Development Standards

2. Minimum subdivision lot size (cl 4.1)

The minimum subdivision lot size is 400m² and each of the proposed allotments exceed the minimum lot size

Part 6 – Additional Local Provisions

3. Earthworks (cl 6.2)

Consent is sought by way of this development application

4. Drinking water catchments (cl 6.4)

The proposed development is within a designated drinking water catchment

5. Essential services (cl 6.9)

All essential services are available to the development and at an adequate capacity

Compliance Table

STATUTORY CONTROL –Lismore Local Environmental Plan 2012				
	Existing	Proposed	Control	Complies
Residential				
Minimum Lot Size (Cl. 4.1)	-	Exceed 400m ²	400m ²	YES

State Environmental Planning Policy 44 – Koala Habitat Protection

State Environmental Planning Policy 44 (SEPP 44) was repealed on the 1 March 2020 when it was replaced with *State Environmental Planning Policy (Koala Habitat Protection) 2019*, however as the application was submitted prior to this date saving provisions prevail.

The site is over 1ha in area and contains some core koala habitat, accordingly SEPP 44 applies. The SEPP enforces, or gives power to LCC's *Comprehensive Koala Plan of Management* (CKPoM), which has been prepared in accordance with Part 3 of the SEPP. A development application must not be inconsistent with this plan of management.

Potential impacts of the proposal on Koala habitat was assessed addressing LCC's *Comprehensive Koala Plan of Management* (CKPoM), which was contained within the supporting Biodiversity Development Assessment Report (BDAR).

The BDAR identified that Koala use of the site is likely to be sporadic and opportunistic, most likely occurring during dispersal and when travelling between areas of foraging habitat. Connectivity between Koala habitat in and around the site is generally poor, with vegetation that occurs to the west of the site and a larger area to the northeast of the site being already fragmented due to existing residential development around the northern section of Greenwood Drive. The very small proportion of foraging habitat that occurs on the subject site provides a conduit between larger areas of koala habitat that occurs on adjacent lands.

The following conclusion was reached in the BDAR assessment regarding the proposal and the Lismore CKPoM:

No evidence of koala usage was recorded within the site. As the koala food trees surveyed are all juvenile to sub-adult and located within a generally cleared area, it is not anticipated that their removal is likely to lead to an unacceptable impact to local koala populations. Higher quality koala

habitat will remain within the local landscape within adjoining properties. No impacts to adjoining off site koala habitat are anticipated as a result of the proposed development.

The historical LGA koala records contain several records for koalas in adjoining properties that contain mature koala habitat between 2000 and 2010, inferring that koalas were present within the mature offsite habitat within the last decade. As no publicly available records exist after 2010, it is difficult to determine if the offsite habitat is still actively utilised by koalas.

A total of seven juvenile to sub-adult koala food trees were recorded within the site as part of the koala habitat assessment. As it is not desirable to retain trees that will reach a mature height of >30m within the small allotment size proposed within the residential zoning, it is anticipated that all seven of the surveyed koala food trees will be removed to facilitate the development.

Council's Ecologist has assessed the submitted BDAR and concluded that the removal of 7 sub-adult Koala Food Trees (KFT's) has been acceptably addressed and satisfies the requirements for a Koala habitat assessment report as required by the LCC CKPoM and SEPP44.

Several koala habitat credits will be retired under the Biodiversity Offset Scheme (BOS) and in addition the applicant is required to concurrently satisfy compensation requirements under the CKPoM and implement the site-specific Koala Plan of Management. The compensation requirement has been calculated as per the guidelines to be the replacement of 54 trees requiring 1350m² of recipient land.

Koala Plan of Management (site-specific)

The proposed development, through consultation with council's assessment staff and recommendations from the Department are to integrate a site-specific *Koala Plan of Management* that incorporates koala sensitive design features to minimise the impact on koala movements across the landscape.

This has been achieved by implementing a *Koala Movement Corridor* to be created to connect the mature koala food trees on the adjacent property to the west through the site to the koala habitat located on the land to the north east of the site. The land (see *Koala Plan of Management* plan in **Attachment 1**) will be established and retained as a movement corridor for Koalas. Conditions have been imposed into the draft conditions of consent with the requirement of establishing the Koala Movement Corridor and prohibiting the corridor to be cleared, altered or damaged except as required to remove noxious weeds or other exotic plant species. This will be supported by an instrument under Section 88B of the *Conveyancing Act 1919*.

To minimise the risk of injury or mortality of koalas moving across the property the design of the Greenwood Drive extension is to incorporate traffic calming measures. The proposal includes koala signage that will be erected at entry points to the site, along with a requirement for all boundary and lot fencing to consist of koala friendly construction and then circumstances relating to the keeping of pets. These aspects of the development have also been conditioned in the draft consent.

It is considered, the proposed design as described in the addendum to the BDAR satisfactorily provides amenity to facilitate koala movement through the landscape, provides traffic and other design measures to protect the safety of koalas in the location. The proposed development activity will result in a short-term loss of koala habitat in the locality however, with the addition of the proposed compensation measures minimal net loss is expected in the long term.

Further commentary on the BDAR and the *Biodiversity Conservation Act 2016* is under BC Act's heading following in this report. The BDAR and Addendum can be found as **Attachment 4 and 5** of this report.

SEPP 55 and Contaminated Land Management Issues

A Preliminary Contaminated Land Assessment (CLA) has been prepared by EAL Consulting Services (Report No: EAL11198.001, dated 8th February 2012) to support this application.

The assessment included a historical search and soil sampling across the site in accordance with NSW EPA Sampling Design Guidelines.

The results indicate that the concentrations of targeted contaminants were below the health investigation levels for residential use.

The technical report reasonably satisfies the objectives of Councils Regional Policy for the Management of Contaminated Land concluding that the proposed development site is suitable for the intended use.

Lismore Development Control Plan

The application has been assessed against the relevant controls in the Lismore DCP as indicated in the following compliance table, and comments are provided where the proposal does not strictly comply with the applicable provisions or conditions are required to address certain matters.

LISMORE DEVELOPMENT CONTROL PLAN			
	Complies Yes/No	Relevant Comments	
Urban Residential Subdivision			
Subdivision Design Principles	Yes	The proposed development complies with the provisions of the DCP Chapter 5A as detailed within pages 8-13 the of the Statement of Environmental Effects apart from acceptable solution A1.2- Lots with an area of 400m ² and greater are capable of accommodating an unconstrained building envelope with minimum dimensions of 12m x 15m. Proposed Lot 14 has a building envelope of 10m x 18m Lot 11 10.48m x 17m. This was to facilitate the koala corridor that was implemented throughout the assessment process. It is considered that these building envelopes still provide an acceptable building footprint, generally compliant with Chapter 1 of the DCP.	
Site Analysis	Yes		
Lot Layout	No		
Street Networks	Yes		
Street Design, Construction and On-Street Parking	Yes		
Pedestrian and Cyclist Facilities	Yes		
Public Transport	Yes		
Public Open Space	Yes		
Stormwater / Water Quality Management	Yes		
Street Trees	Yes		
Biodiversity Conservation	Yes		
Utility Services	Yes		Capacity for all services to be available to the development
Aboriginal and European Cultural Heritage	Yes		AHIMS assessment submitted. Land highly modified, conditions applied
Crime Prevention Through Environmental Design			
Surveillance	Yes	The proposed development complies with the provisions of DCP Chapter 13 through the design of the subdivision layout to provide opportunities for natural surveillance for future residents.	
Access Control and Target Hardening	Yes		
Territorial Reinforcement	Yes		
Defensive Space	Yes		
Lismore Urban Area			
Roads, Open Space, Constraints to Development, Potential Koala Habitat, Services	Yes	This chapter was not addressed in the Development Application but can generally comply with the requirements, as outlined throughout the assessment.	

S7.11 Contributions Plan

The proposed development will result in increased demand for public services and amenities, and therefore Section 7.11 Contributions are applicable. These can be addressed through standard conditions of consent.

Levy Area	Receipt No.	No. of lots	Rate per lot	Amount Payable
Community Services and Facilities				
Residential (Urban)	715	15	\$195.55	\$2,933.25

Levy Area	Receipt No.	No. of lots	Rate per lot	Amount Payable
Public Domain Facilities				
Residential (Urban)	723	15	\$751.27	\$11,269.05
Open Space and Recreational Facilities				
- Tucki Tucki Creek				
- Residential (Urban)	727	15	\$77.58	\$1,163.70
- Lismore Park				
- Residential (Urban)	729	15	\$262.59	\$3,938.85
Cycleway Facilities				
Residential (Urban)	678	15	\$911.30	\$13,669.50
Urban Traffic Management Facilities				
Residential (Urban)	682	15	\$3,000.16	\$45,002.40
Stormwater				
Residential (Urban)	731	15	\$48.81	\$732.15
Section 94 Plan Administration				
Residential (Urban)	690	15	\$122.74	\$1,841.10
Total				\$80,550.00

S64 Contributions

The proposed development will result in increased demand for water and sewer infrastructure capacity and therefore the following Section 64 Contributions are applicable. For this development application each Lot will be required to acquire 1 ET each for water supply and sewerage services. Note the existing dwelling will have a credit of 1ET water supply. No credit for sewer.

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.				
Stage One				
Water Supply				
Urban Reservoir Zone – Lismore Water	503	2.0	\$1,492	\$2,984
Rous County Council (Except Nimbin)	509	2.0	\$8,872	\$17,744
Sewerage Services – East Lismore Catchment				
Lismore Sewer	507	2.0	\$11,832	\$23,664
Total				\$44,392
Stage Two				
Water Supply				
Urban Reservoir Zone – Lismore Water	503	2.0	\$1,492	\$2,984
Rous County Council (Except Nimbin)	509	2.0	\$8,872	\$17,744
Sewerage Services – East Lismore Catchment				
Lismore Sewer	507	2.0	\$11,832	\$23,664
Total				\$44,392
Stage Three				
Water Supply				
Urban Reservoir Zone – Lismore Water	503	4.0	\$1,492	\$5,968
Rous County Council (Except Nimbin)	509	4.0	\$8,872	\$35,488
Sewerage Services – East Lismore Catchment				
Lismore Sewer	507	4.0	\$11,832	\$47,328
Total				\$88,784

Levy Area	Account No.	No. of ET's	Cost Per ET	Amount Payable
Stage Four				
Water Supply				
Urban Reservoir Zone – Lismore Water	503	7.0	\$1,492	\$10,444
Rous County Council (Except Nimbin)	509	7.0	\$8,872	\$62,104
Sewerage Services – East Lismore Catchment				
Lismore Sewer	507	8.0	\$11,832	\$94,656
Total				\$167,204

Roads Act Approvals

The proposal requires works within the public road reserve and dedication of public road reserve, and as such, a permit under the provisions of s.138 of the Roads Act must be obtained prior to those works being undertaken. This requirement is addressed in relevant conditions of consent.

Local Government Act Approvals

The proposal requires approval under the provisions of s.68 of the Local Government Act for sewerage management, stormwater management and water management work which must be obtained prior to those works being undertaken. This requirement is addressed in relevant conditions of consent.

Biodiversity Conservation Act 2016

The NSW *Biodiversity Conservation Act 2016* (BC Act) commenced on 25 August 2017. The BC Act introduces new mandatory requirements for biodiversity assessment, reporting and requires proponents to offset biodiversity impacts by retiring biodiversity credits through the Biodiversity Offset Scheme (BOS).

Options for satisfying the offset requirements include:

- Finding and retiring of biodiversity credits (like for like) with credits to be purchased at market value;
- Payment into the Biodiversity Conservation Fund; or
- Funding a Biodiversity action if a suitable possibility is listed/approved by NSW Department of Planning, Industry (BCD)

The first option would be the most cost-effective. The second option provides the quickest way to satisfy the offset obligation, but this comes at a higher cost (attracting a risk premium). The third option is not likely to be available.

The subject application triggers the BOS as the proposed development will have impact on land identified by the Biodiversity Values Map tool. A Biodiversity Development Assessment Report (BDAR) was submitted in accordance with the BC Act. In letter dated 28 January 2020 *The Biodiversity and Conservation Division* of the *NSW Department of Planning, Industry* (BCD) provided the following response to the first draft of the submitted BDAR.

In summary the BCD recommends that.

1. The BDAR should be reviewed, updated and certified to comply with the *Biodiversity Conservation Act 2016* and resubmitted as part of the proposal.
2. The BDAR should provide clear evidence to verify the status of the macadamia plant identified in the impact area.
3. The BDAR should recognise the presence of the Lowland Rainforest endangered ecological community on the site.
4. Once the BDAR has been finalised, certified, re-submitted and reviewed, the mitigation measures as outlined in Table 6.5 of the BDAR should form part of any proposed development consent conditions.

The recommendations were requested from the applicant and an amended BDAR submitted 2 April 2020. BCD provided the following comment on the second BDAR;

We note that this development does not propose to avoid or minimise impacts to biodiversity. It is instead proposed to develop the entire site and offset the biodiversity impacts. The Biodiversity Assessment Method (BAM) provides guidance on how a proponent can avoid and minimise potential biodiversity impacts. The Lismore City Council should satisfy itself that the proposed development has adequately complied with the avoid and minimise considerations for biodiversity impacts set out in the BAM.

The BCD understands that the Comprehensive Koala Plan of Management for south-east Lismore also applies to this development. We note that there are many surrounding records of koala in the locality. The council should consider reviewing the development layout to incorporate measures such as retaining/replanting koala habitat and incorporating fauna-friendly fencing, to provide habitat connectivity for the species.

Once the above avoid and minimise considerations have been satisfied, appropriate offsets for remaining impacts should be determined.

We generally agree with the final biodiversity credit requirement identified in the updated BDAR.

The BDAR was requested to be amended again, considering the BCD comments and specifically how the proposed design layout and BDAR comply with the 'avoid and minimise' considerations of the prescribed impacts. The result was an Addendum to the report which provides guidance on how a proponent can avoid and minimise potential biodiversity impacts and the implementation of a site-specific Koala Plan of Management and Vegetation Management Plan. This final submission was considered to satisfy the requirements under the BC Act.

The BDAR has identified that the retirement of the following biodiversity credits will be required for the proposed development:

Ecosystem Credits To be Retired	Area of impact ha	Number of credits to be retired
841-Forest Red Gum grassy open forest of the coastal ranges of the NSW North Coast Bioregion	0.3	2
1302-White Booyong - Fig subtropical rainforest of the NSW North Coast Bioregion	0.2	0
Species Credits To be Retired	Area of impact ha	Number of credits to be retired
Arthraxon hispidus /Hairy Joint Grass	0.1	0
Macadamia tetraphylla /Rough-shelled Bush Nut	1.0	2

As mentioned, the credit retirement requirement calculated by the BAM is accepted and supported by BCD. A final version of the BDAR is attached to this report as **Attachment 4 and 5**.

Bioresecurity Act

The Bioresecurity Act whilst not been addressed in the Statement of Environmental Effects, was identified in the BDAR under *bioresecurity risks* in the *avoid and minimise* chapter 6.5. Any matters relating to compliance with the Bioresecurity Act will be addressed through the recommendation of relevant the consent conditions.

A summary of ecological mitigation measures

- All avoid and minimise measures recommended in the BDAR are conditioned
- Pre-clearing surveys for koalas and other fauna,
- Development and implementation of vegetation clearing protocols.
- Development and implementation of hygiene protocols (bioresecurity)
- Development and implementation of pollution and waterways protection protocols
- A Section 88b instrument under the *Conveyancing Act 1919* to be placed on the titles of Lots 11-14 to provide protection for the Vegetated Koala Movement Corridor.
- a Vegetation Management Plan (VMP) for proposed native plantings at the site is to be prepared in accordance with Council guidelines prior to issuing of the Subdivision Works Certificate.
- Boundary and internal lot fencing to consist of 'koala-friendly fencing' that aims to allow for the safe movement of koalas across the site while avoiding conflict with domestic animals.
- In order to facilitate the safe movement of koalas across the new section of Greenwood Drive:
 - Koala signage would be placed at entry points to the development site.

These conditions have been actioned and/or form conditions in the Draft Conditions of Consent found as **Attachment 3** of this report.

Likely Impacts of the Development

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

ENVIRONMENTAL APPRAISAL

CONSIDERED

- | | |
|---|-----|
| 1. Statutory Controls | Yes |
| 2. Policy Controls | Yes |
| 3. Design in relation to existing building and natural environment | Yes |
| 4. Landscaping/Open Space Provision | Yes |
| 5. Traffic generation and Carparking provision | Yes |
| 6. Loading and Servicing facilities | Yes |
| 7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.) | Yes |

Alternative Determination Options

Notwithstanding the above assessment and recommendation of this report the following alternate determination options have been provided, should Councillors form a different view:

1. A deferred commencement consent - a consent is issued however not operational until the applicant satisfies Council, in accordance with the regulations, as to any matter specified in the deferred commencement condition(s), as determined by council.
2. The Development Application is refused on the following grounds;
 - the likely impacts of that development, including environmental impacts on both the natural and built environments, and impacts in the locality, are significant enough to warrant refusal and therefore does not comply with CI 4.15, 1(b) of the Environmental Planning and Assessment Act 1979.
 - The site is not suitable for the proposed development and therefore does not comply with CI 4.15, 1(c) of the Environmental Planning and Assessment Act 1979.

- The granting of consent would not be in the public interest in accordance with the provisions of s4.15(1)(e) of the Environmental Planning & Assessment Act 1979.

Conclusion

The Development Application seeks consent for the subdivision of 16 residential allotments, plus the establishment of the Greenwood Driveway extension connecting to the existing sections of Greenwood Drive in the North and West.

If approved the subdivision will deliver infill development on land which been identified for residential development in excess of 20 years. As discussed in this report, the sizes of the lots are a departure from that of the existing however this is not considered to be to the detriment of the locality as it will provide additional and varied residential lots to Goonellabah, affording housing and investment opportunities for future residence.

The application has carefully considered and provided rigorous ecological assessment and integrated biodiversity best practice principles such as providing a movement corridor for habitat. The application meets Council's Statutory and Policy requirements. The application if approved shall satisfy the offset requirements generated under the *Biodiversity Conservation Act 2016* and LCC's *Comprehensive Koala Plan of Management*. The offset requirement credits have been assessed by both Council's Ecologist and *The Biodiversity and Conservation Division of the NSW Department of Planning, Industry* who have both concurred with the outcome of the ecological assessment undertaken.

Stormwater treatment assessment has also been assessed in rigor with multiple amendments requested by Council's Development Engineer in order to come up with an acceptable solution for the treatment of overland flows and ground water.

Following a detailed assessment of the development, it is concluded that subject to the draft conditions the location is suitable for the development and that the proposal is satisfactorily in the public interest.

Attachment/s

- | | |
|--|----------------|
| 1. ↔ Working Document - DA Plans - 658 Ballina Road GOONELLABAH 2480 | (Over 7 pages) |
| 2. ↓ Summary of Public Submissions | |
| 3. ↔ Draft Conditions of Consent - DA19/438 - 658 Ballina Road - Subdivision to create 16 Lots | (Over 7 pages) |
| 4. ↔ Biodiversity Development Assessment Report | (Over 7 pages) |
| 5. ↔ Biodiversity Development Assessment Report Addendum | (Over 7 pages) |

Summary of Public Submissions for DA19/438

Name	Summary of submission	Comment
Paul & Tracey Vidler	<ul style="list-style-type: none"> • The application is an over development of the site • Concerned over the close proximity of proposed Lot 14 abutting the boundary to the rear of their property • Trees on the boundary will require pruning or removal to fit a dwelling on this lot (Lot 14) • The closeness between the boundaries proposed is not acceptable • Loss of amenity (privacy) to our property – No privacy screening or plantings proposed. • Would like lots 13 and 14 to be ‘an open space lot’ or combine the lots to have a larger separation distance from a future dwelling • Objection over the removal of koala food trees • Increase of traffic • The poor condition of Hillcrest Avenue and the intersection with Rosegum drive • Requests that Greenwood Drive remains as is and not become a through road • Concerns over stormwater on the site, ground water and over land flows. 	<p>Addressed in council report under Notification / Submissions <i>The proposed block sizes are not in keeping with the surrounding area.</i></p> <p>It is common for a residential allotment to abut another residential lot.</p> <p>A koala movement corridor is proposed along this boundary that will also provide additional privacy in time.</p> <p>The 7 juvenile koala food trees are to be compensated. Adequate reporting has been provided.</p> <p>Council’s Development Engineer provides that the exiting road network is capable of facilitating the development.</p> <p>Addressed in council report under Notification / Submissions <i>stormwater</i></p>
Ian Harris & Vivan	<ul style="list-style-type: none"> • The development proposal 	Addressed in council report

<p>Anguillesi</p>	<p>is not in keeping with the surrounding area, the lots are too small and should be a minimum of 800m² to be consistent with the lot sizes of the locality.</p> <ul style="list-style-type: none"> • There is no allowance for green space or public areas Increased traffic on Greenwood Drive, with attendant noise and safety issues. • The “New road” shown on the plan appears to be placed to enable access to the adjoining block, so it too could be subdivided. • Increased noise in general. • The status of the Koala is now “threatened with extinction”, upgraded from “endangered”, so the statement of Koala habitat should be updated to reflect the new status of the Koala. • There are a number of errors with the submitted application material; • The document entitled “Attachment 3 – Traffic” is so full of errors • the document entitled “Geotechnical Landslide Risk Assessment” has typing errors • lots 1 and 2 have no street frontage and are accessed by a Right of Carriageway which is opposition to Councils DCP the plan does not provide footpaths or cycleways 	<p>under Notification / Submissions <i>The proposed block sizes are not in keeping with the surrounding area.</i></p> <p>Addressed in council report under Notification / Submissions <i>There is no allowance for green space or public areas.</i></p> <p>The “new road” has been included at the request of the NSW rural fire service to provide a turning facility for fire fighting vehicles in accordance with the current legislation.</p> <p>For ecological reporting see the <i>SEPP 44 – Koala Habitat Protection and Biodiversity Conservation Act 2016</i> sections of the Council report.</p> <p>Noted</p> <p>These lots have dedicated access handles.</p>
<p>Jim & Barbara</p>	<ul style="list-style-type: none"> • Over development of the 	<p>Addressed in council report under Notification /</p>

Hodgson	<p>site</p> <ul style="list-style-type: none"> • Noise from additional dwellings • Impact Koala habitat • Traffic 	Submissions
Ros Irwin Friends of the Koala	<ul style="list-style-type: none"> • impact on koalas of the removal of feed trees and ongoing impact from the urban development • Supports medium to high density residential development in urban areas rather than the expansion of residential development within villages and rural Areas • over-development of the site • inconsistent with neighbouring residential dwellings • requires an assessment of significance to accompany the DA. • Questions compliance with Council's CKPOM 	<p>For ecological reporting see the <i>SEPP 44 – Koala Habitat Protection and Biodiversity Conservation Act 2016</i> sections of the Council report.</p> <p>Noted</p> <p>Addressed in council report under Notification / Submissions <i>The proposed block sizes are not in keeping with the surrounding area.</i></p> <p>For ecological reporting see the <i>SEPP 44 – Koala Habitat Protection and Biodiversity Conservation Act 2016</i> sections of the Council report</p>
Amanda Arthur-Drew	<ul style="list-style-type: none"> • block sizes are not in keeping with the surrounding area • Small blocks of the sizes proposed will leave no room for privacy • Increase in noise • Storm water issues • increased in traffic • The existing large gum trees on the western boundary will require removal to accommodate the new dwellings • impact the wildlife 	<p>Addressed in council report under Notification / Submissions <i>The proposed block sizes are not in keeping with the surrounding area.</i></p> <p>Addressed in council report under Notification / Submissions Storm water</p> <p>Trees on the boundary are to be retained.</p> <p>For ecological reporting see the <i>SEPP 44 – Koala Habitat Protection and Biodiversity Conservation Act 2016</i> sections of the Council report.</p>

	including koalas and wallaby provided photos	
Robert & Jacqueline Wells	<ul style="list-style-type: none"> • Traffic increase • Lack of open space • Increased risk to the endangered koala population • Ground water from under 4 and 6 Jasmine Court drains directly on to Lots 11, 12, 13 & 14 • block sizes are not in keeping with the surrounding area 	<p>Council's Development Engineer provides that the exiting road network is capable of facilitating the development.</p> <p>Addressed in council report under Notification / Submissions <i>Stormwater and groundwater</i></p> <p>For ecological reporting see the <i>SEPP 44 – Koala Habitat Protection and Biodiversity Conservation Act 2016</i> sections of the Council report</p>
Peter & Elizabeth Saunders	<ul style="list-style-type: none"> • Hillcrest Ave is dangerously narrow. Increased traffic with the extension of Greenwood Dr will impact on traffic flow • removal of Koala Habitat • Ground water 	<p>Council's Development Engineer provides that the exiting road network is capable of facilitating the development.</p> <p>For ecological reporting see the <i>SEPP 44 – Koala Habitat Protection and Biodiversity Conservation Act 2016</i> sections of the Council report</p> <p>Addressed in council report under Notification / Submissions <i>Stormwater and groundwater</i></p>
William & Kerry Goldie	<ul style="list-style-type: none"> • Impact on koala habitat • Traffic • Noise and ground water • Bushfire and other emergencies (access) • this is not the area for affordable housing • Loss of amenity sustained by adjacent properties 	<p>For ecological reporting see the <i>SEPP 44 – Koala Habitat Protection and Biodiversity Conservation Act 2016</i> sections of the Council report</p> <p>Addressed in council report under Notification / Submissions; <i>Stormwater and groundwater, The increased amount of traffic, Bushfire and other emergencies</i></p> <p>The proposed development is not being proposed to be affordable housing as recognised under SEPP (ARH).</p> <p>It is not considered that there will be an unacceptable loss of amenity.</p>

Report

Subject	Adoption of DCP Part A Chapter 14 - Vegetation Protection
TRIM Record No	BP20/743:EF19/789-02
Prepared by	Strategic Planning Project Officer
Reason	Report back to Council after public exhibition of draft Chapter 14
Strategic Theme	Our built environment
Strategy	Our land-use planning caters for all sectors of the community.
Action	Provide opportunities for community engagement in the preparation of land-use strategies and zone reviews.

Executive Summary

At its Ordinary Meeting on 14 July 2020 Council resolved to put on public exhibition a draft Development Control Plan (DCP) Chapter 14 (Vegetation Protection). The draft Development Control Plan responds to the *State Environmental Planning Policy (Vegetation in Non-Rural Areas)* - commonly referred to as the 'Vegetation SEPP' - that requires Councils to update their Development Control Plan controls to define and regulate when a permit is required for "below threshold" vegetation clearing within prescribed zones. It also responds to the *Biodiversity Conservation Act 2016* provisions that enable Councils to determine their own measures for how a development (under Part 4 of the Environmental Planning and Assessment Act) can "avoid or minimise" impacts on biodiversity.

In accordance with the requirements of the *Environmental Planning and Assessment Regulations 2000* and Council's Community Engagement Strategy, the draft Development Control Plan was on public exhibition for 28 days. During that time one (1) submission was received which is summarised and addressed within this report. Staff have also made changes to the text, formatting and structure of the document to make it easier to read and provide consistency with other chapters of the Development Control Plan adopted by Council in recent years. These changes do not alter the controls in the draft chapter that was placed on public exhibition.

As the new Chapter 14 Development Control Plan contains provisions relating to new subdivisions, minor consequential changes are required to Chapters 5A (Urban Residential Subdivision) and 6 (Village, Large Lot Residential and Rural Subdivision) to ensure consistency across the Development Control Plan.

It is recommended that the attached DCP Part A Chapter 14 Vegetation Protection is adopted to replace the existing Chapter 14 (Preservation of Trees or Vegetation) and the changes to Chapters 5A and 6 are also adopted.

Recommendation

That:

1. Council adopt the attached Development Control Plan Part A Chapter 14 and repeal the existing Chapter 14 Development Control Plan (Preservation of Trees or Vegetation) in accordance with the requirements of the *Environmental Planning and Assessment Regulations 2000*.
2. Council adopt the cross-referencing amendments to Development Control Plan Part A Chapters 5A (Urban Residential Subdivision) and 6 (Village, Large Lot Residential and Rural Subdivision) as outlined in this report to ensure consistency across the Development Control Plan.

Background

In August 2017, the *State Environmental Planning Policy (Vegetation in Non-Rural Areas)*, commonly referred to as the 'Vegetation SEPP', came into effect as part of a suite of reforms that included the *Biodiversity Conservation Act 2016* and the *Local Land Services Amendment 2016*. The Vegetation SEPP repealed clauses 5.9 and 5.9AA of the Standard Instrument LEP that allowed Councils to regulate the clearing of vegetation through a Development Control Plan (DCP). The introduction of the Vegetation SEPP requires Councils to update their DCPs to define and regulate when a permit is required for "below threshold" vegetation clearing within prescribed zones.

The *Biodiversity Conservation Act 2016* also enables Councils to determine their own measures for how a development (under Part 4 of the EP&A Act) can "avoid or minimise" impacts on biodiversity.

Council's Operational Plan and the Biodiversity Management Strategy include a project to review the current Preservation of Trees DCP and/or prepare a new Biodiversity DCP.

The proposed DCP (Vegetation Protection) attached to this report responds to the legislative changes by establishing:

- The appropriate approval pathway for any vegetation removal;
- Exemptions to when a permit is required;
- Requirements for landowners;
- Matters for consideration by Council;
- Principles and controls to conserve significant vegetation and protect biodiversity values.

The main changes between the current DCP and the new chapter are:

- The new DCP covers all areas of the LGA, whereas the current one is limited in its application;
- The list of what is "exempt" from requiring an approval is more detailed;
- The requirements for information from applicants and the issues for consideration by assessors in rural and high biodiversity value areas is more significant.

Public consultation

In accordance with the requirements of the *Environmental Planning and Assessment Regulations 2000* and Council's Community Engagement Strategy, the draft DCP was put on public exhibition for 28 days and was promoted via Local Matters and the Your Say website.

One (1) submission was received that raises issues relevant to a broad range of planning controls, rather than matters specific to this DCP. The submission is attached to this report and summarised below.

Issues	Response from staff
<ol style="list-style-type: none"> 1. Loss of habitat is not protected by text. 2. Concern about stormwater management 3. Development near creeks should not be allowed. 4. All new buildings should be set up for solar power and water catchment and reuse. 5. Small lots in rural areas are not OK. 6. Development near university not appropriate. 7. Council should encourage reuse of old sites in Lismore. 8. Hard surfaces increase heat gain and encourage use of air conditioners. New development must include passive solar design. 9. It's time all development was carbon neutral. 10. Inadequate koala habitat protection, particularly along Skyline / Durham Rd. 11. No more clearing should be allowed, and corridors needed that are safe for animals to move along. 12. Any development needs to include paths and cycleways. 	<ol style="list-style-type: none"> 1. The DCP introduces significant new measures to protect high conservation value vegetation, including habitat areas and wildlife corridors. 2. Stormwater management is not relevant. A review of DCP Chap 22 (Water Sensitive Urban Design) which includes stormwater management controls is underway. 3. Buffers to creeks are considered included in the new Chapter. Additional planning controls are in the Water Management Act 2000 and DCP Chapter 11 (Buffers). 4. Not directly relevant. 5. Not directly relevant. 6. Not directly relevant. 7. Not directly relevant. 8. Not directly relevant. 9. Not directly relevant. 10. Not directly relevant. The DCP does provide additional protections for koala habitat. 11. The DCP introduces additional protections for any areas identified as a wildlife corridor within Council's Biodiversity Management Strategy. 12. Not directly relevant.

Modifications by staff post exhibition

Since public exhibition of the draft DCP closed, staff have reviewed the draft chapter and made some changes to the text, formatting and structure of the document to achieve greater clarity, make it easier to read and provide consistency with other chapters of the DCP adopted by Council in recent years. These include changing all references to Part A & Part B to Sections 4 & 5, the inclusion of a Table of Contents and text edits that do not alter the draft controls previously presented to Council and placed on public exhibition.

Consequential Amendments to DCP Part A Chapters 5A and 6

Part A Chapters 5A (Urban Residential Subdivision) and 6 (Village, Large Lot Residential and Rural Subdivision) of the DCP both contain requirements relating to biodiversity conservation. As Section 5 of the new Chapter 14 applies to greenfield subdivisions and includes a range of detailed controls, a minor amendment is required to both Chapters 5A and 6 to reference the new provisions of Chapter 14.

The amendments are shown here below, **highlighted in yellow**.

Chapter 5A

Performance Criteria	Acceptable Solutions
<p>P33 The subdivision design:</p> <ul style="list-style-type: none"> • retains and enhances areas of significant ecological value; • provides for rehabilitation areas to offset vegetation removal; • provides appropriately sized riparian vegetation zones if the land contains watercourses; • includes revegetation buffer areas around ecologically sensitive vegetation; • accommodates corridor connectivity for areas of ecologically significant vegetation. 	<p>A33.1 A Vegetation Management Plan (VMP) is to accompany the development application and is prepared in accordance with the requirements of Lismore City Council's Guidelines for the Preparation of Vegetation Management Plans 2010 and DCP Chapter 14 (Vegetation Protection).</p> <p>A33.2 Management zones nominated in the VMP for revegetation or retention of existing native vegetation are to be located outside of the following areas:</p> <ul style="list-style-type: none"> • asset protection zones as required by NSW Rural Fire Service's Planning for Bush Fire Protection 2006 or standards applicable at the date of lodgement of the DA; • areas that can be cleared under the NSW Rural Fire Service's 10/50 Vegetation Clearing Code of Practice.

Performance Criteria	Acceptable Solutions
	Note: Figure 23 illustrates how subdivision design can incorporate measures to protect and enhance significant ecological values.

Chapter 6

PERFORMANCE CRITERIA	ACCEPTABLE SOLUTIONS
<p>P38.1 The subdivision design:</p> <ul style="list-style-type: none"> retains and enhances areas of significant ecological value; provides for rehabilitation areas to offset vegetation removal; provides appropriately sized riparian vegetation zones if the land contains watercourses; includes revegetation buffer areas around ecologically sensitive vegetation; accommodates corridor connectivity for areas of ecologically significant vegetation. 	<p>A38.1 A Vegetation Management Plan (VMP) and, where necessary, a Threatened Species Management Plan is to demonstrate how areas of significant ecological value are to be retained. The VMP will be prepared in accordance with the requirements of Council's Guidelines for the Preparation of Vegetation Management Plans 2010 and DCP Chapter 14 (Vegetation Protection).</p> <p>A38.2 Management zones nominated in the VMP and any Threatened Species Management Plan for revegetation or retention of existing native vegetation are located outside:</p> <ul style="list-style-type: none"> asset protection zones as required by NSW Rural Fire Service's Planning for Bush Fire Protection 2006 or standards applicable at the date of lodgement of the development application; areas that can be cleared under the NSW Rural Fire Service's 10/50 Vegetation Clearing Code of Practice.

Comments

Finance

Not required for this report.

Other staff comments

Council's Arborist recommended additional text to provide clarity around when approval for tree / vegetation removal should be granted or refused when an application seeks to remove vegetation that is considered a nuisance to adjoining properties.

Conclusion

The updated DCP Chapter 14 meets all statutory requirements, updates the approval pathways and matters for consideration, and will assist staff to ensure new developments appropriately avoid and minimise impacts upon high biodiversity value areas. The draft DCP was exhibited in accordance with the *Environmental Planning and Assessment Regulations 2000* and Council's Community Engagement Strategy and the submission received has been addressed within this report.

Minor changes to the text and structure of the document have been made to make it easier to read. Simultaneous and minor changes to DCP Chapter 5A & 6 in relation to biodiversity controls for new subdivisions are also required as a result of adopting DCP Chapter 14. The changes have been addressed within this report and included as part of the recommendation for adoption.

Attachment/s

- ➡ Vegetation Protection DCP (Final) (Over 7 pages)
- ↓ Submission Dian Edwards

Tony Bale

From: Your Say Lismore <notifications@engagementhq.com>
Sent: Sunday, 23 August 2020 10:26 AM
To: Records
Subject: Dian Edwards completed Submission - Changes to DCPs

Dian Edwards just submitted the survey 'Submission - Changes to DCPs' with the responses below.

Given Name

Dian

Surname

Edwards

Address

[REDACTED]

Postcode

2480

Phone Number

No Answer

Email address

[REDACTED]

Submission

A very handsome document. Council continue to miss the opportunity to really protect and enhance for any future development. We are losing habitat still and the words enhance in some text is not enough to really protect what is lost. Ridge lines are going to be destroyed and SW development fire risks are huge. Storm water management for increased hard surfaces may be ok in design but are never managed or maintained. Any environmental requirements put on developers are always deleted at the end. Any development above or near creeks should not occur as the water quality is destroyed. The our water needs protecting from ongoing development including industry. Unless there can be really good design and maintenance and 100m buffer zones along water courses and creeks both sides to create buffers to the water and animal habitat zones there is going to be a lost opportunity for our future proofing. We need future proof planning not adaption to growth. All new buildings should be solar set up for at least 5KW and passive energy designed, all new buildings should have water catchment and reuse. We should be living in an environmental wonderland here. It used to be that way but has been developed to death. If council see it necessary to have small lots in a rural area that is not ok. The planning in a town with very little employment and education prospects for the poor has not been addressed. Planning small lots with back access is not safe in poor areas, for the householders or the community. Council really is way off with further development on the land above the uni or any ridge-lands. This should be significant environmental conservation space. Having plans that do not show how a corridor should really be enhanced and where it can connect to the next and increase the corridor width. These developments only show little fragments of vegetation that are surrounded by cars, trucks and people with dogs but say we will protect that space by fencing and allowing koalas to crawl under and cross roads and meet

dogs and think that is great. Council should be encouraging land develop old places into duplexes and units. There are so many old little houses on large lots in Lismore that are asbestos these should be redevelop into duplex sites. There should be some reclaimed blocks amongst the plan to allow for corridors. Small blocks have another issue that is not future proofing us and that is there is so much hard surface increasing local heat gain in the environment. We will struggle to survive climate change and need to use air-conditioning to live as the heat increases in towns causes more heat gain this will in turn need power which will put pressure on the environment further. New development must include solar power and passive design. Industrial development should also have to comply t environmental issues. It is about time all development was carbon neutral. Bring back the Rainbow region which was clean and green and made the environment a better place not worse. Re the plans inadequate options for protecting habitat and wildlife An example of a huge fail is the Skyline Durham Rd habitat protection and fencing. Land owners now do not maintain their fences and cattle roam and kill wildlife. They literally kick koalas to death. It created a wonderful Road for Richmond waste trucks and others to speed down and kill everything. There is a wallaby killed every week on that Road. Where is the enhance in that plan. Farmers should have had to move their fences back and planting occurring. Now that would have been a plan. The road should have had speed restrictive designs. Currently I watch Richmond waste trucks do 80 in the 50 zone and 110 in the 80 zone every time. The design should have included speed limitation measures not create anther speedway. Wildlife habitat is more than koalas it should be about protecting all species. Just leaving an occasional tree and stamping it environmentally ticked is not good enough. No more clearing should be allowed and corridors need to be built that are safe for animals to move along. There is plenty of cleared land to stick too. Make that a plan no more development on land with bush and trees and increase the size and connection. This plan also misses the mark on cycle ways. Stating maybe put them in type language. Any development needs to include paths and cycle ways. Council know what a waste of money it is to add them later. eg old courthouse area Molesworth St. How much did that cost us? Council really need to look at cycleway design in the Sydney area. Now that is good design. Campbell St and Hunt St just from the top of my head. Thank you for listening Dian Edwards [REDACTED]

Report

Subject	DCP Chapter 5A - West Goonellabah Structure Plan
TRIM Record No	BP20/744:EF18/391
Prepared by	Strategic Planning Project Officer
Reason	Report to Council after public exhibition of the draft Structure Plan.
Strategic Theme	An inclusive and healthy community
Strategy	Our community is a desirable place to live, an easy place to work and a welcoming place to visit.
Action	Create liveable communities for all.

Executive Summary

At its Ordinary meeting on 14 July 2020 Council resolved to repeal the following Chapters in Part B of the Development Control Plan as they were outdated and deemed to serve no practical purpose;

- Part B Chapter 1 – Lismore Urban Area
- Part B Chapter 2 – Land at West Goonellabah
- Part B Chapter 7 – Dunoon Village
- Part B Chapter 8 – Clunes Village

At the same time Council resolved to place on exhibition a draft Structure Plan intended to guide any future development at West Goonellabah as a potential amendment to Development Control Plan Part A Chapter 5A (Urban Residential Subdivision) and to receive a report on the results of the public exhibition.

While no submissions were received following review by Council staff it is recommended that the Structure Plan not be incorporated into Development Control Plan Chapter 5A as much of the land is highly constrained for development. It is also recommended that the potential for this land to accommodate additional residential development is considered in the review of the Growth Management Strategy.

Recommendation

That:

1. Council does not amend Development Control Plan Part A Chapter 5A (Urban Residential Subdivision) to include a Structure Plan for land at West Goonellabah; and
2. the potential of land zoned R1 General Residential in the draft Structure Plan to accommodate residential development is considered in the review of the Growth Management Strategy.

Background

At its Ordinary meeting on 14 July 2020 Council resolved to repeal the following Part B Development Control Plans (DCP) as they were outdated and deemed to serve no practical purpose:

- Part B Chapter 1 – Lismore Urban Area
- Part B Chapter 2 – Land at West Goonellabah

- Part B Chapter 7 – Dunoon Village &
- Part B Chapter 8 – Clunes Village.

At the same meeting Council resolved to put on exhibition a draft Structure Plan to guide any future development at West Goonellabah as a potential amendment to DCP Part A Chapter 5A (Urban Residential Subdivision) and to report back to Council the results of the public exhibition.

West Goonellabah

DCP Part B Chapter 2 – Land at West Goonellabah applied to all land shown in Figure 1 below.

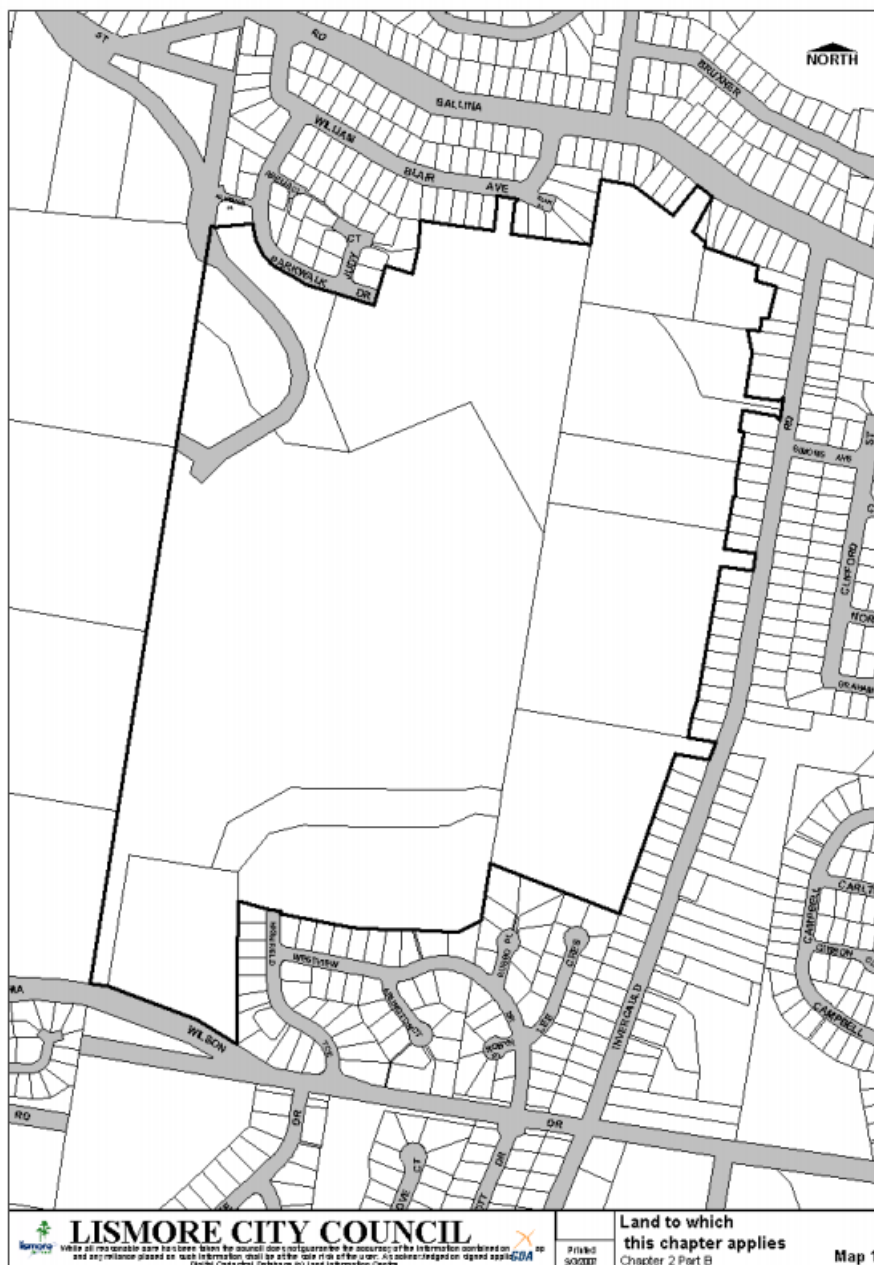


Figure 1: Land at West Goonellabah as defined by the former Part B Chapter 2

The current zoning of the land is shown in Figure 2 below, with the Urban Deferred Matters area proposed (Urban Deferred Matter Planning Proposal) to be rezoned SP2 (SCU land), E2 Environmental Conservation (Council land) and R1 General Residential (privately owned land).

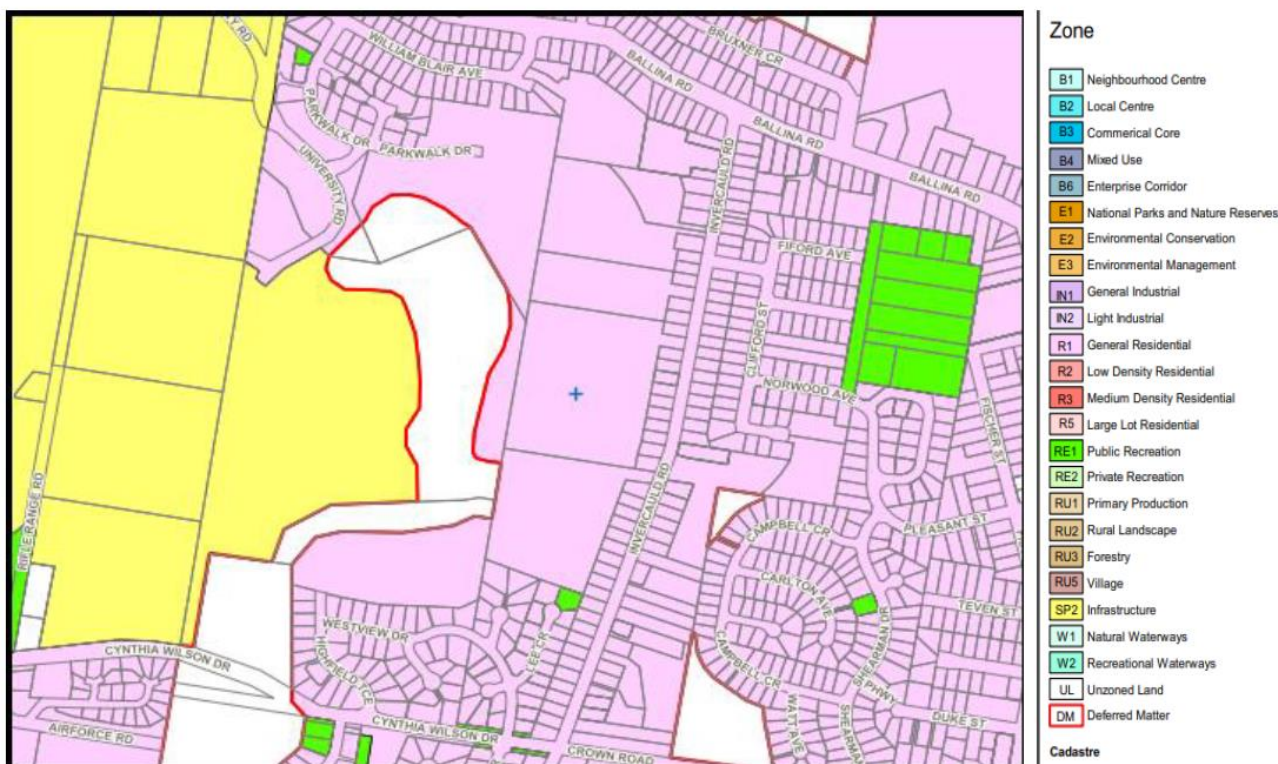


Figure 2: Current zoning for the area.

The areas currently zoned R1 General Residential have been zoned for general residential use since the adoption of the LEP 2000 when the area was included in the (2a) Residential zone. The site is heavily constrained by steep slopes and potential koala habitat. It is also identified as part of an important wildlife corridor referred to as the 'Central Corridor' in Council's Urban Green Corridors Plan, which aims to restore and connect urban bushland across the greater Lismore area.



Figure 3: The Central Corridor in Council's Urban Green Corridors Plan.

Draft Structure Plan

The draft structure plan (shown below in Figure 4) was proposed to be included as Appendix D of Chapter 5A of the Lismore Development Control Plan. The intention was to guide the location of local road network requirements and ensure any future subdivision of the land provides suitable environmental buffers through the inclusion of an urban green corridor area. The north-south road link was identified in the now repealed Part B Chapter 2 DCP. The structure plan also nominates a pedestrian link to Southern Cross University and provides a broad direction for any future residential subdivision so that it could be undertaken in stages.

No submissions were received as a result of public exhibition of the draft structure plan. However, further consideration and site inspections by strategic planning staff raised concerns about the location of proposed road links that could require a future subdivision to locate roads in a pre-determined location without regard to a detailed site constraints analysis. There are also concerns about the potential for this land to accommodate the types of residential development envisaged in the R1 General Residential zone.

If no structure plan is included in Chapter 5A, any future subdivision proposal would need to be assessed on its merit and in accordance with the relevant planning controls including the *Biodiversity Conservation Act 2016*, the Lismore Comprehensive Koala Plan of Management, the existing provisions in DCP Chapter 5A that apply to all new urban residential subdivisions, as well as the new DCP Chapter 14 (Tree Preservation).

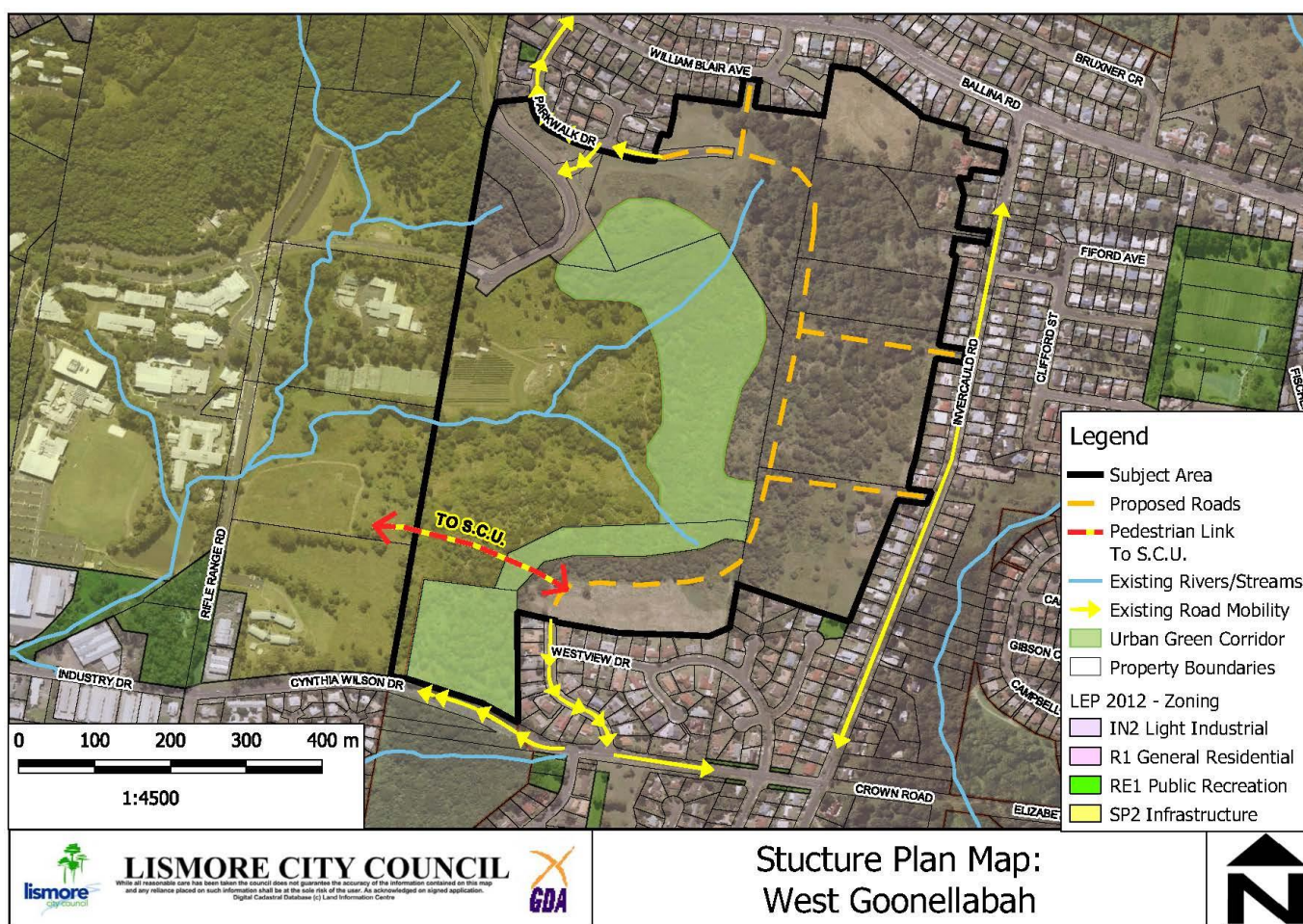


Figure 4: Draft Structure Plan

Growth Management Strategy Review

The review of the Growth Management Strategy will consider the potential of existing urban zoned land to accommodate new housing development. This review is to occur within the current financial year to ensure there is enough supply of residential and employment land to meet projected growth. As part of that review process, it is recommended that the suitability of land zoned R1 General Residential at West Goonellabah for general residential development is considered.

Comments

Finance

No required

Public consultation

The draft structure plan was on public exhibition for 28 days. No submissions were received. Consultation with landowners and the community regarding the suitability of the land for residential development will occur during the review of the Growth Management Strategy.

Conclusion

DCP Part B Chapter 2 – Land at West Goonellabah was formally repealed on August 14, 2020 following endorsement by Council at its July 14 Ordinary meeting and two weeks notification. A proposal to include a draft Structure Plan within DCP Chapter 5A Urban Residential Subdivision to guide future development was put on public exhibition. No submissions were received. Further investigations by strategic planning staff have raised questions about the potential impacts of including the structure plan in the DCP and recommend that it not be included. Furthermore, the suitability of the area for residential use should be included as part of the upcoming GMS review.

Attachment/s

There are no attachments for this report.

Report

Subject	DA5.2020.176.1 Proposed Dual Occupancy at 49 Stead Road, Jiggi
TRIM Record No	BP20/763:DA20/176
Prepared by	Assistant Development Assessment Officer (Planning)
Reason	For Council determination of requested Clause 4.6 variation of LLEP 2012
Strategic Theme	Our built environment
Strategy	Our built environment is managed and enhanced to meet the needs of our growing community.
Action	Provide development assessments in a timely, customer friendly and sustainable manner.

Executive Summary

Council has received a Development Application (DA20/176) for the construction of an additional dwelling, creating a detached dual occupancy on the property at 49 Stead Road, Jiggi. The application is inclusive of a variation to Lismore Local Environmental Plan 2012 Clause 4.2C(2)(b).

This clause enables Council to consider the approval of detached dual occupancy in the RU1 Primary Production Zone. The variation sought is to the standard that specifies

- *Each dwelling uses the same vehicular access to and from a public road*

A circular from the Department of Planning, Industry and Environment dated 15 December 2017 notified Council's, where a Local Environmental Plan numerical standard is varied by greater than 10% only the Council can assume the Secretary's concurrence to determine the application. Therefore, as the variation sought in this instance is a 100% variation to the development standard, it requires the determination by Council.

This report provides an assessment of the application and recommends Council approve such with the variation to Clause 4.2C(2)(b) of the Lismore Local Environmental Plan 2012.

Draft conditions of consent are included as an attachment to this report.

Recommendation

That:

1. Pursuant to Clause 64 of the Environmental Planning and Assessment Regulation 2000, Council assumes the concurrence of the Secretary of the Department of Planning, Industry and Environment for a Lismore Local Environmental Plan 2012 Clause 4.6 variation to the development standard in Clause 4.2C(2)(b) that each dwelling will use the same vehicular access to and from a public road; and
2. Pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, Council grant consent to Development Application 5.2020.176.1 for a detached dual occupancy at 49 Stead Road, Jiggi, subject to the draft conditions attached to this report.

Background

Council has received a development application for the construction of an additional dwelling, creating a detached dual occupancy, retaining wall and a building line variation to 7m on the property at 49 Stead Road, Jiggi.

The applications seeks a Clause 4.6 variation to the Lismore Local Environmental Plan 2012 Clause 4.2C(2)(b), which is the clause that enables Council to consider the approval of a detached dual occupancy with dual driveways in the RU1 Primary Production Zone, and specifically that:

- *Each dwelling uses the same vehicular access to and from a public road*

The variation is supported by Council's Development Assessment Staff, having principal regard historically noting the second driveway has been in existence for many decades and has been continuously used by the owner to gain vehicular access the western portion of this land. Council's Development Engineer has raised no objections and has commented that both driveways have suitable safe sight distance along Stead Road.

The existing fence is located well inside the property boundary adjacent to Stead Road. There is minimal distance between the road verge and the property boundary of the subject site with the existing piped driveway crossing being located on private land.

Access from the existing driveway servicing the principal dwelling, to the proposed dual occupancy dwelling is deemed excessive and extremely difficult, due to a power pole with *stays* being located just inside the existing fence. The *stays* are also close to the existing carport attached to the principal dwelling, limiting feasibility as well.

Significant earthworks would also be required, together with the removal of existing retaining walls, the said fence and the like to achieve that outcome. For these reasons closing a longstanding driveway to achieve a numerical standard is neither pragmatic or reasonable and is unnecessary in the circumstances of this application.

Clause 64 of the Environmental Planning and Assessment Regulation 2000 authorises Council to assume the Secretary's concurrence for variations to development standards made under Clause 4.6. Accordingly, as the variation sought in this application is 100% to the development standard, it requires the referral of the matter for Determination by Council.



Figure 1: Existing driveway access to the current dwelling & carport

Locality Plan



Figure 2: Locality – 49 Stead Road, Jiggi

Description of the Proposal

The applicant seeks to construct a one (1) bedroom dwelling with an infrastructure retaining wall, to enable three (3) generations of family members to reside on the land to provide support for young children and elderly grandparents. The proposed development includes the following components:

- Rural dual occupancy (detached) development comprises the construction of a new dwelling;
- The new dwelling is single storey and incorporates 1-bedroom, 1-bathroom, combined kitchen, living and dining room, open office and single carport;
- The new dwelling is proposed to have external hempcrete walls (sandstone in colour) and a zincalume roof;
- Access to the new dwelling is proposed from the pre-existing driveway off Stead Road;
- The application seeks a variation to the setback from Jiggi Road to 7m (to the proposed retaining wall associated with the dwelling).

The dwelling will be constructed 54 metres west of the principal dwelling on site, which is well within the LEP maximum distance permitted.

Site Plan

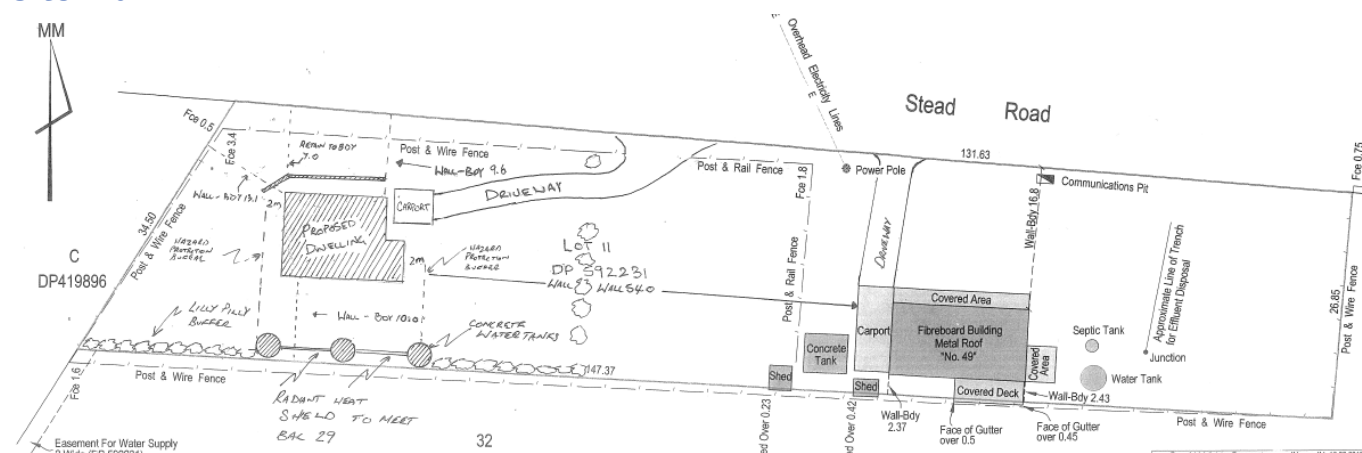


Figure 3: Site Plan

Description of the Locality

The subject site is located approximately 18.5km from Lismore and 26km from Nimbin. The site comprises a total area of 4000m² with access proposed to both dwellings from Stead Road.

Adjoining development comprises of rural grazing land and associated rural dwellings and outbuildings.

Assessment of Development Application

Statutory Controls

Lismore LEP 2012
Zoning – RU1 Primary Production
Item of Heritage – No
S7.11 Contributions Plan
Environmental Planning & Assessment Act 1979
Biodiversity Conservation Act 2016
SEPP (Koala Habitat Protection) 2019
SEPP No. 55 – Remediation of Land
SEPP (BASIX) 2004

Policy Controls

Lismore Development Control Plan
Contaminated Land policy
On-site sewage management strategy

Referral Officer's comments

Building

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

Environmental Health

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

Environmental Health (On-site Wastewater)

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

Engineering/Traffic/ Stormwater Drainage

The application has been reviewed and comments provided by specialist staff, with no objections raised subject to the imposition of appropriate conditions which have been included in the draft conditions attached to this report. There is no objection to the use of two driveways as both have suitable sight distance and the traffic generated by the proposed development will be minimal.

External Agency Referrals

Rural Fire Service (RFS)

The application was referred to the RFS and comments were received, raising no objection and recommending seven (7) conditions be placed on the Development Consent, which has been included within the draft conditions.

Notification / Submissions

The development application was notified to adjoining landowners in accordance with Council's Community Engagement Strategy and Participation Plan. No submissions were received.

Matters for Consideration

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

Lismore LEP 2012

Zone, Definition and Permissibility

The proposed development is permissible, subject to consent, as a Dual Occupancy (detached) within the RU1 zone under the provisions of the Lismore LEP 2012.

Definition: *Dual Occupancy (detached)* – means 2 detached dwellings on one lot of land but does not include a secondary dwelling.

Zone Objectives and Land Use Table

The proposed dual occupancy is a permitted use, subject to consent, within the RU1 Primary Production zone.

Having regard to the provisions of Lismore LEP 2012, it is considered that:

- (a) The development is in accordance with clause 2.3 and promotes the specific aims of the plan, the objectives of the zone and the objectives of the controls; and
- (b) The development is in accordance with and promotes the character of the neighborhood within which the development is carried out.

As such, consent to the development may be granted.

Part 4 – Principal Development Standards

1. Erection of dual occupancies (detached) in Zone RU1 (clause 4.2C)

The proposal is in keeping with the objectives of the clause in that:

- it provides new accommodation for rural families and workers;
- will have minimal impact on the primary production potential of the land; and
- is of an appropriate scale for the site.

An assessment of the site and the development application confirms:

- *the development will not further impair the use of the land for agriculture or rural industries, and*
- *the land is physically suitable for the development, and*
- *each dwelling will be situated within 100 metres of each other, and*
- *the land is capable of accommodating on-site wastewater disposal and management of sewage for the development, and*
- *the development will not have an adverse impact on the scenic amenity or character of the rural environment.*

An application to vary the development standard 4.2C(2)(b) that each dwelling uses the same vehicular access to and from a public road is addressed below.

2. Exceptions to development standards (clause 4.6)

The objects of this clause are;

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Development consent may be granted under Clause 4.6(3) for a development that would otherwise contravene a development standard imposed by an environmental planning instrument where the applicant has provided a written request demonstrating:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The variation being sought is not prohibited by Clause 4.6(6) or 4.6(8).

The Clause sought to be varied is 4.2C(2)(b) being:

- *each dwelling will use the same vehicular access to and from a public road.*

The following table addresses the considerations in Appendix 3 of the Department of Planning, Industry and Environment's guide on varying development standards by the applicant:

Department of Planning Considerations	Response by Planner
1. <i>What is the name of the environmental planning instrument that applies to the land?</i>	Lismore Local Environmental Plan 2012 (LLEP2012)
2. <i>What is the zoning of the land?</i>	RU1 – Primary Production
3. <i>What are the objectives of the zone?</i>	<ul style="list-style-type: none"> • To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. • To encourage diversity in primary industry enterprises and systems appropriate for the area. • To minimise the fragmentation and alienation of resource lands. • To minimise conflict between land uses within this zone and land uses within adjoining zones. • To preserve rural resources by ensuring that the viability of rural land is not extinguished by inappropriate development or incompatible uses. • To enable a range of other uses to occur on rural land providing such uses do not conflict with existing or potential agriculture and do not detract from the scenic amenity and character of the rural environment.
4. <i>What is the development standard being varied?</i>	Clause 4.2C(2)(b) - each dwelling will use the same vehicular access to and from a public road
5. <i>Under what clause is the development standard listed in the environmental planning instrument?</i>	Clause 4.2C(2)(b) of the Lismore Local Environmental Plan 2012.
6. <i>What are the objectives of the development standard?</i>	<ol style="list-style-type: none"> (a) to provide alternative accommodation for rural families and workers, (b) to protect the primary production potential of the land, (c) to ensure development is of a scale and nature that is compatible with the rural character and environmental capabilities of the land.
7. <i>What is the numeric</i>	One (1) vehicular access to and from a public road.

Department of Planning Considerations	Response by Planner
<i>value of the development standard in the environmental planning instrument?</i>	
8. <i>What is the proposed numeric value of the development standard in your development application?</i>	Two (2) vehicular access driveways to and from a public road.
9. <i>What is the percentage variation (between the proposal and the environmental planning instrument)?</i>	100%
10. <i>How is strict compliance with the development standard unreasonable or unnecessary in this particular case?</i>	<ul style="list-style-type: none"> • The two driveways are longstanding and have been in existence for many decades. • The driveway to the proposed dual occupancy has been used continuously by the owner to access the western portion of the allotment. • Chapter 1 of the DCP outlines the circumstances where a variation to this clause is supported which includes the use of a longstanding existing driveway. • The driveway will be required to be upgraded to meet with current standards, should consent be granted • Closing the driveway to achieve the numerical standard is considered unreasonable or unnecessary • The driveway to the existing dwelling does not lend itself to being redirected to the proposed dual occupancy, due to the location of an existing power pole and supporting stays. • There is only minimal detrimental impact to adjoining landowners & the streetscape • No identified specific impacts for sight distance impairment and/or additional traffic generation
11. <i>How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act? (NB: Now Section 1.3 of the Act).</i>	<p>Strict compliance would hinder 1.3</p> <p>(c) to promote the orderly and economic use and development of the land, and</p> <p>(d) to promote the delivery and maintenance of affordable housing.</p>
12. <i>Would strict compliance with the standard, in your particular case, be unreasonable or unnecessary? Why?</i>	<ul style="list-style-type: none"> • Strict compliance would mean considerable cost in the relocation of the power pole and stays. • More likely, strict compliance would limit the construction of a dwelling, which would prevent the creation of new rural accommodation that is in keeping with the objectives of Clause 4.2C. • The existing driveway is safe, been historically used, known to the local community & part of the local environment
13. <i>Are there sufficient environmental planning</i>	<ul style="list-style-type: none"> • The proposed development is consistent with the approved and permissible use of the land.

Department of Planning Considerations	Response by Planner
<i>grounds to justify contravening the development standard? Give details.</i>	<ul style="list-style-type: none"> • The proposed development will not impair the agricultural use of the land. • The proposed development will not result in land use conflict. • The proposed development meets all the objectives of Clause 4.2C. • The use of an existing longstanding second driveway is supported by Chapter 1 of the DCP. • There is no loss of amenity and no apparent adverse social, environmental or economic impacts.

It is considered, in the circumstances of this development application, the applicant has sufficiently met the requirements of Clause 4.6(3).

In accordance with Clause 4.6(4)(ii), the consent authority can be satisfied, the proposed development will be in the public interest because it is consistent with the objectives of the identified standard and the objectives for development within the zone in which the development is proposed to be carried out.

Clause 64 of the Environmental Planning and Assessment Regulation 2000 authorises Council to assume and or act for the Secretary, to grant concurrence for exemptions to development standards made under Clause 4.6.

Part 5 – Miscellaneous Provisions

3. Heritage conservation (clause 5.10)

The site is not listed as a heritage item and is not within a heritage area.

4. Bushfire Hazard (clause 5.11)

The application was referred to the NSW Rural Fire Service who have assessed the development in accordance with Clause 55(1) of the Environmental Planning and Assessment Regulation 2000 and recommended conditions of consent, which have been included in the draft conditions.

Part 6 – Additional Local Provisions

5. Earthworks (clause 6.2)

There is a 900mm cut proposed and associated retaining wall on the northern side of the dwelling.

6. Drinking Water Catchment (clause 6.4)

The site is not located within the drinking water catchment.

7. Essential services (clause 6.9)

The site has access to, or draft conditions have been included, for the provision of all essential services.

SEPP 55 & Contaminated Land Management Issues

Council's Environmental Health Officer has assessed the application against SEPP55 and identified the site is not listed as a potentially contaminated site, the development is located within the curtilage of the principal dwelling and is currently being used for residential purposes, therefore the use of the land is not becoming more sensitive and therefore does not trigger a contaminated land assessment.

SEPP (BASIX) 2004

A BASIX Certificate #1095763S has been submitted complying with this SEPP.

Lismore Development Control Plan

The application has been assessed against the relevant controls in the Lismore DCP as provided in the following compliance table.

Lismore City Council

**Meeting held 13 October 2020 - DA5.2020.176.1 Proposed Dual Occupancy
at 49 Stead Road, Jiggi**

1. Development Control Plan Compliance Table

LISMORE DEVELOPMENT CONTROL PLAN		
	Complies Yes/No	Relevant Comments
Chapter 1 - Residential Development		
Setbacks, Design, Density and Height	N	<p>The height, scale and density are appropriate for the surrounding rural area.</p> <p>The proposed dwelling will be setback from the property boundary approximately 9.6m to the dwelling and 7m to the proposed retaining wall. The proposed setback distance does not meet the 15m acceptable solution setback however, the dwelling is located appropriately for the topography of the land and to meet satisfactory bushfire requirements from the southern boundary. Between the proposed dwelling site and the Stead Road there is an earth boom bank which will minimise visibility from the streetscape.</p> <p>The existing & proposed settlement pattern is very much representative of rural residential, small lifestyle properties and the allotment is only a constrictive, previously approved 34m deep.</p> <p>There is minimal aesthetic impact upon the streetscape and the proposal is consistent with the existing vista.</p> <p>As identified elsewhere within the report there will be minimal impairment of vehicular and or pedestrian vision.</p> <p>On this basis it is considered that the proposed setback of 7m meets the performance criteria of this element.</p>
Visual Privacy	Y	The proposed dual occupancy will be approximately 54m from the existing dwelling on a sloping block. No visual privacy issues are anticipated.
Acoustic Privacy	Y	No issues anticipated.
Open Space and Landscaping		<p>The dual occupancy will be located on a rural lot of 4000m². Sufficient open space is available and landscaping options are available.</p> <p>There is a deck proposed providing approximately 23m² of functional open space off the living, kitchen and dining area.</p>
Earthworks, Retaining Walls and Erosion Control	Y	There is a 900mm cut associated with the construction of the proposed dual occupancy dwelling, together with a subsequent same height retaining wall proposed.
On-Site Car Parking, Carports, Garages, Outbuildings and Driveways	Y	Enough space is available for car parking and maneuvering. The location of the two driveways has been discussed elsewhere in this report and is supported by Council staff. A carport is proposed providing undercover car parking for the proposed dual occupancy dwelling.
Fences	N/A	Not relevant to this application
Service areas	Y	Site area is available for clothes drying and bin storage.
Orientation, Glazing and Shade Control	Y	Windows allow for cross ventilation. The building is considered to meet the Performance Criteria and a BASIX Certificate has been supplied.
On-Site Sewage and Waste Water Management		Council's EHO has assessed the on-site sewage management report and advised the following:

LISMORE DEVELOPMENT CONTROL PLAN		
	Complies Yes/No	Relevant Comments
		<p>A Sec68 application has been submitted with the application. A sewage management report, prepared by Ecoteam, has been provided with the application.</p> <p>The buffer distances are all reasonable and meet the requirements of the On-site Sewage and Wastewater Management Strategy (OSWMS).</p> <p>The information provided by the applicant demonstrates that it is possible to manage wastewater for the development site.</p> <p>Consent to be conditioned accordingly.</p>
Rural Dual Occupancies (Detached)	Y	The DCP provides circumstances in which a variation to Lismore Local Environmental Plan, Clause 4.2C(2)(b) may be supported, which includes the use of the longstanding driveway that otherwise complies with general Council requirements and Australian Standards. A draft condition requiring the existing driveway to be upgraded has been included.
Chapter 11 – Buffers		
Recommended Buffers	N	<p>The proposed dual occupancy is located approximately 7.2m from the southern property boundary and 13.1m from the western boundary. The building complies with the buffer setbacks to the eastern boundary. The proposed development does not meet the prescribed 30m setback for both the southern and western boundaries.</p> <p>The land adjoining to the south is very steep making it unlikely that cattle would regularly graze near the boundary and there is no existing cattle related infrastructure present in the vicinity of the southern or western boundary.</p> <p>Council's EHO has assessed the application in regard to buffers and provides the following comment:</p> <p><i>“The existing settlement pattern is very much representative of rural residential, small lifestyle properties adjoining existing agricultural land. The existing vegetation pattern is representative of the contours of the land, steep land treed and not cleared for agricultural use. The combination of the land slope, vegetation and land use pattern support the variation.”</i></p> <p>Given the information above, I recommend a variation to the 30m setback be supported for the following reason:</p> <ul style="list-style-type: none"> • The existing settlement pattern is very much representative of rural residential, small lifestyle properties • There are existing established trees along the western boundary on either side of the fence providing a biological buffer • The southern boundary is very steep making it unlikely that cattle would regularly graze near the boundary line • There is no existing cattle infrastructure (yards, laneways, troughs) present in the vicinity of either the southern or western boundary • Proposed radiant head shields incorporating non-combustible water tanks on the southern boundary provide a

LISMORE DEVELOPMENT CONTROL PLAN		
	Complies Yes/No	Relevant Comments
		buffer to the grazing land.
Chapter 15 – Waste Minimisation		
Waste disposal	Y	A condition has been imposed to ensure any waste materials are disposed of at a licensed waste facility.

Section 7.11 Contributions Plan

The proposed development will result in increased demand for public services and amenities, and therefore section 7.11 Contributions are applicable.

The following Levies would therefore apply under section 7.11 of the *Environmental Planning and Assessment Act 1979* and amounts payable are set out below and included in the conditions in the recommendation.

Levy Area	Receipt No.	No of new dwellings	Rate per 1-bedroom dwelling	Amount Payable
Community Services and Facilities				
Residential (Rural North)	672	1	\$81.48	\$81.48
Public Domain Facilities				
Residential (Rural North)	676	1	\$313.03	\$313.03
Open Space and Recreational Facilities				
- Tucki Tucki Creek				
- Residential (Rural North)	671	1	\$32.33	\$32.33
- Lismore Park				
- Residential (Rural North)	670	1	\$109.41	\$109.41
Rural Traffic Management Facilities				
Residential (Rural North)	679	1	\$1821.91	\$1821.91
Stormwater				
Residential (Rural North)	693	1	\$20.33	\$20.33
Section 7.11 Plan Administration				
Residential (Rural North)	690	1	\$51.14	\$51.14
Total				\$2429.63

Applicable Regulations

There are no additional requirements in accordance with the provisions of Environmental Planning and Assessment Regulation, 2000.

Relevant Council Policies

Council policies on onsite sewage management and contaminated land have been addressed under the DCP controls and the Contaminated Land Assessment SEPP.

Amenity

The proposal provides a suitable level of amenity for existing, future and surrounding residents. There is deemed minimal detrimental impact agricultural, environmental or social impacts resultant from the development.

Roads Act 1993 Approvals

The proposal requires works within the public road reserve, and as such, a permit under the provisions of s.138 of the *Roads Act 1993* must be obtained prior to those works being undertaken. This requirement is addressed in relevant draft conditions of consent.

Local Government Act 1993 Approvals

The proposal requires approval under the provisions of Section 68 of the *Local Government Act 1993* for the installation of an on-site sewage management system, general water and sewer works including stormwater. The relevant draft conditions of consent address this.

All Likely Impacts of the Development

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

ENVIRONMENTAL APPRAISAL	CONSIDERED
1. Statutory Controls	Yes
2. Policy Controls	Yes
3. Design in relation to existing building and natural environment	Yes
4. Landscaping/Open Space Provision	Yes
5. Traffic generation and Carparking provision	Yes
6. Loading and Servicing facilities	Yes
7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8. Site Management Issues	Yes
9. ESD Principles	Yes
10. All relevant S4.15 considerations of <i>Environmental Planning and Assessment (Amendment) Act 1979</i>	Yes

Comments

Finance

Not required for this matter.

Other staff comments

Relevant professional staff including NSW Rural Fire Service have been consulted and their comments incorporated into this assessment report.

Public consultation

The development application was notified to adjoining landowners in accordance with Council's Community Engagement Strategy and Participation Plan. No submissions were received.

Alternative Determination Options

As detailed in the conclusion of this report, the proposed development proposal is recommended to be approved subject to the draft conditions of approval. However, Councilors may form a different view of the impacts of the proposed application and what is considered as 'in the public interest'. Should the Councillors form a different view, the following alternative option has been provided for consideration.

Option 1 – Refuse the proposed Detached Dual Occupancy

The Council may determine to refuse the application, of which the reasons for the refusal may be:

1. Council is not satisfied that the proposed cl 4.6 variation demonstrates that the development standard is properly satisfied, because:
 - (a) The application has not demonstrated that strict compliance with the provisions of clause 4.2C(2)(c) of the Lismore Local Environmental Plan 2012 is unreasonable or unnecessary. (cl.4.2C(2)(c))
 - (b) The application has not demonstrated there are sufficient environmental planning grounds to justify contravening the development standard
 - (c) The application has not demonstrated that the objectives of the standard have been met.
 - (d) The application has not demonstrated that the Local Environmental planning objectives for the zone have been met.
 - e) The granting of consent would not be in the public interest in accordance with the provisions of s4.15(1)(e) of the Environmental Planning & Assessment Act 1979

Conclusion

The proposal for a one (1) bedroom detached dual occupancy dwelling seeks a variation to the Lismore Local Environmental Plan 2012 of more than 10% to Clause 4.2C(2)(b) being that, each dwelling will use the same vehicular access to and from a public road.

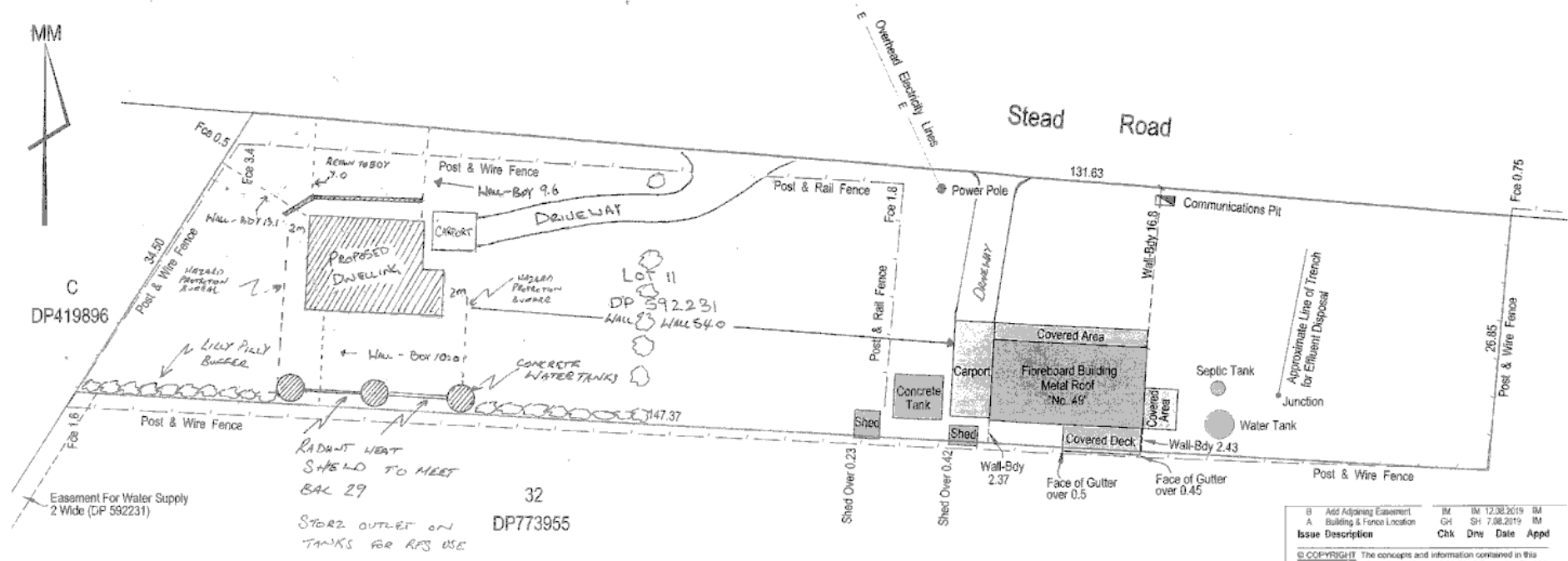
In accordance with Clause 4.6, the applicant has demonstrated that in these circumstances, compliance with the development standard is "*unreasonable or unnecessary*" and that "*there is sufficient environmental planning grounds to justify contravening the development standard*".

The Lismore Local Environmental Plan variation is supported with a recommendation of approval, having consideration to the numerous articulated supporting factors, including it is not conducive to require the existing driveway to provide access to the proposed new dwelling, notwithstanding the second driveway is generally compliant in any case, plus noting the proposed dual occupancy otherwise is considered to meet all relevant planning controls and is in the public interest.

Draft conditions have been included as an attachment to this report.

Attachment/s

1. [↓](#) Attachment 1 - Plans
2. [⇒](#) Attachment 2 - Draft Conditions of Consent (Over 7 pages)



NATIVE TREE BUFFER - [Handwritten symbols]

RADIANT HEAT SHELD TO MEET BAL 29
 STORZ OUTLET ON TANKS FOR RFS USE

B	Add Adjoining Easement	IR	IM	12.08.2019	IM
A	Building & Fence Location	GH	SH	7.08.2019	IM
Issue Description					
© COPYRIGHT The concepts and information contained in this document are the Copyright of Heath & McPhail Surveying Pty Ltd. Use or duplication of this document in part or in full without written permission of Heath & McPhail Surveying Pty Ltd constitutes infringement of copyright.					
DRAWING STATUS: Unless there is an approved signature on the space provided, this plan is not verified.					
CAUTION: The information shown on this plan may be insufficient for some types of detailed design. Heath & McPhail Surveying Pty Ltd should be consulted as to the suitability of the information shown herein prior to the commencement of any works based on this plan.					

W. Clifton
 Plan showing setback distances of existing building in relation to property boundary in Lot 11 DP 592231, Known as No. 49 Stead Road, Jiggi.
 Scale: 1:400 at A3
 Datum: N/A
 Origin: N/A
 Contour Int: N/A
 Locality: Jiggi
 LGA: Lismore
 Autocad File: HM19112-1B
 Civilcad File: HM19112.mjo

G. J. Heath
G. J. HEATH
 Registered Surveyor
 Date Surveyed: 2.08.2019

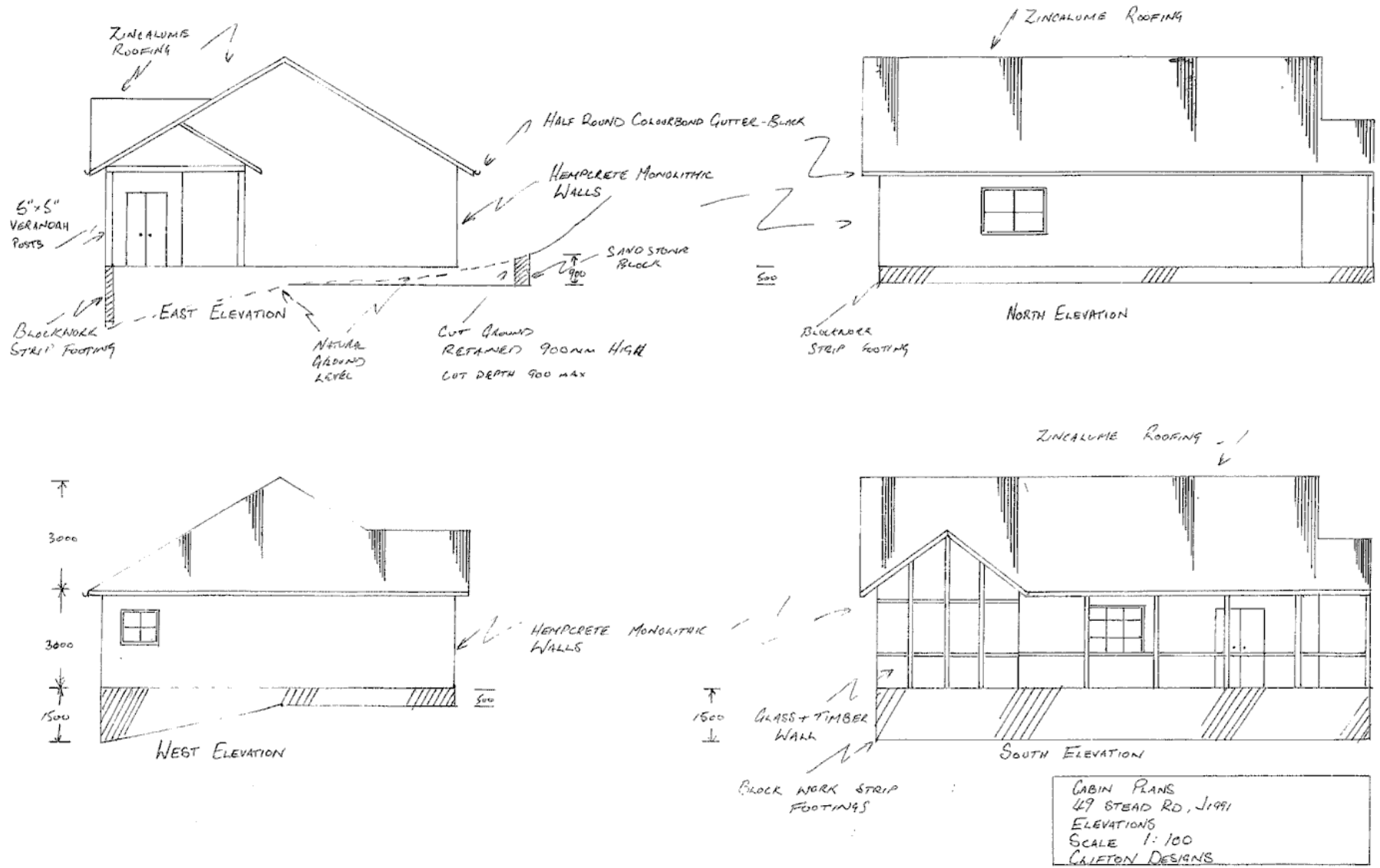


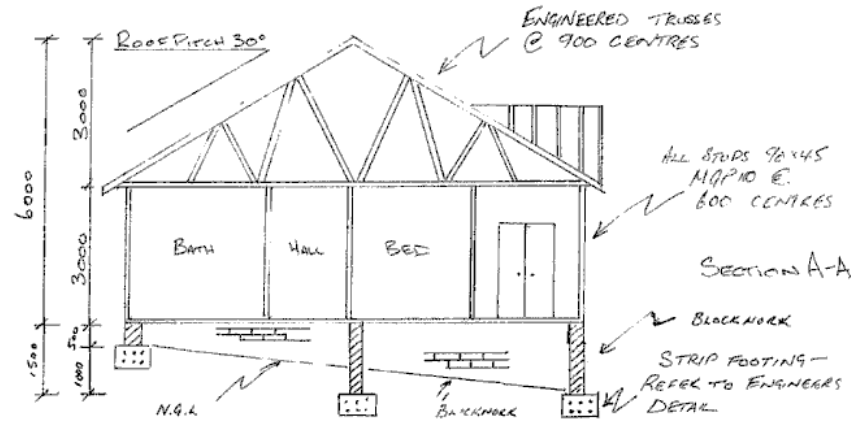
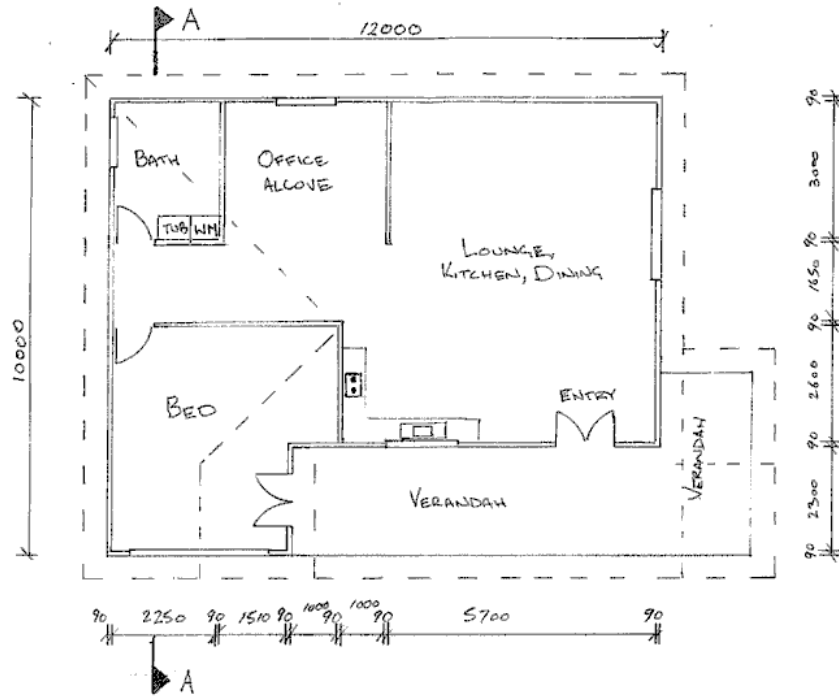
Disclaimer:
 This is a plan for the location of existing building & structures in relation to the property boundaries of Lot 11 in DP 592231 only.
 The offset distances shown for the fencing in relation to the boundary have been measured to the centre of the fence line.
 No Title Search has been carried out as part of this survey.
 There may be other restrictions & easements upon this land that has not been investigated as part of this survey.
 If any construction is planned close to the boundaries it would be advisable to carry out further survey work to determine the boundary dimensions and setback distances to proposed structures.
 This plan has not been examined by Land Registry Services. No responsibility can therefore be accepted for any future difference in boundary definition which may result from re-survey of adjoining lands or subsequent registration of new survey plans.
 This plan may not be copied unless these notes are included.

HM Heath & McPhail SURVEYING
 Heath & McPhail Surveying Pty Ltd
 80 Hillcrest Avenue
 Coonambah, NSW - 2480 - Australia
 Office (02) 66 886181
 Glen Heath: 0417 677 689 Jan McPhail: 0407 289 192

Sheet No.	Checked By:	Approved By:	Date of Survey:
1 of 1	GH	<i>G. Heath</i>	2.08.2019

Dwg. No. **HM19112-1** Issue **B**





NOTES :

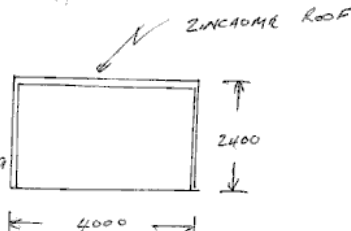
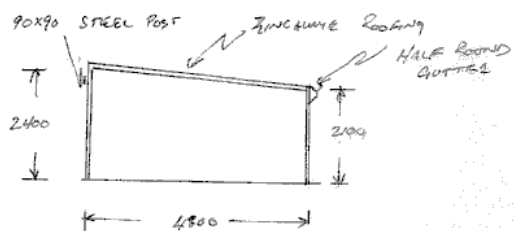
- ALL WORK TO BE IN ACCORDANCE WITH LOCAL COUNCIL BUILDING CODE AND THE AUSTRALIAN STANDARDS
- AS 1684
- AS 1445
- PRE FAB TRUSSES ARE CERTIFIED BY FACTORY ENGINEER
- ALL MEASUREMENTS, GROUND LINES, MUST BE VERIFIED ON SITE, PRIOR TO COMMENCEMENT OF WORK
- TERMITE MANAGEMENT IN ACCORDANCE WITH AS3666.1

ALL WORK TO BE IN ACCORDANCE WITH BAL 29 CONSTRUCTION METHODS AND COMPLYING WITH AS 3959-2009

- FIRE RATED TIMBERS TO BE USED EXTERNALLY
- 5mm TOWNSHIP GLASS
- MESH SCREENS ON ALL DOORS + WINDOWS
- SOUTH PROPERTY BOUNDARY TO HAVE RADIANT HEAT SHIELD CONSISTING OF CONCRETE TANKS CONFINED BY CORRUGATED FENCE TO A HEIGHT OF 1.8 METRES

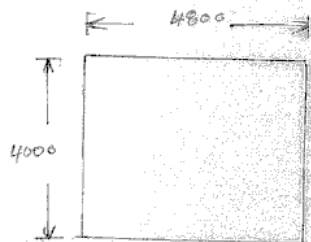
CABIN PLANS
49 STEAD RD 1/19/1
FLOOR PLAN + SECTION
SCALE 1:100
CLIFTON DESIGNS

CARPORT PLAN SCALE 1:100

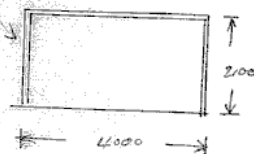


WEST ELEVATION

NORTH/SOUTH ELEVATION



PLAN VIEW



EAST ELEVATION

Report

Subject	Climate Resilience Policy
TRIM Record No	BP20/752:EF19/132-02
Prepared by	Director of Partnership, Planning and Engagement
Reason	
Strategic Theme	Our natural environment
Strategy	We are committed to environmental sustainability.
Action	Ensure sustainability principles are understood and applied in Council's business operations.

Executive Summary

Climate resilience can be defined as the capacity of a socio-ecological system to successfully adapt to climate change in the face of disturbance, stress and adversity. Resilience enables the community to better adapt, reorganize, and evolve leaving it better prepared for future climate change impacts.

Lismore City Council is yet to create a strategic policy framework to embed climate changed action into its operational activities.

The draft Climate Resilience Policy seeks to address this deficit within Council's policy portfolio and to set the strategic agenda to address the climate emergency and climate change at a local level.

Recommendation

That Councilors support the commencement of 28-day public exhibition of the draft Climate Resilience Policy.

Background

On the 13 August 2019 Council acknowledged a Climate Emergency and in doing so required the following actions:

- Briefing on how the current Community Strategic Plan (CSP) addresses the climate emergency.
- Includes specific questions regarding Climate Change and Disaster Preparedness in the next CSP review and Community Satisfaction Survey in order to inform Council's operational response.
- Maintains strong partnerships with local Emergency Services and seeks funding opportunities to work with them to deliver disaster preparedness information and initiatives across the LGA.

The Community Strategic Plan at that stage had not addressed the climate emergency, however after consultation with the community in the review of the CSP, it was found that the community thought that climate resilience is an important priority for Council to address.

At the March Council meeting in 2020, it was identified that Council required a Climate Resilience policy and strategy to progress Council's operational response to the challenges posed by Climate Change. A policy could be developed inhouse, however funding needs to be sourced to support the development of a climate adaptation strategy to achieve climate resilience.

Why climate resilience?

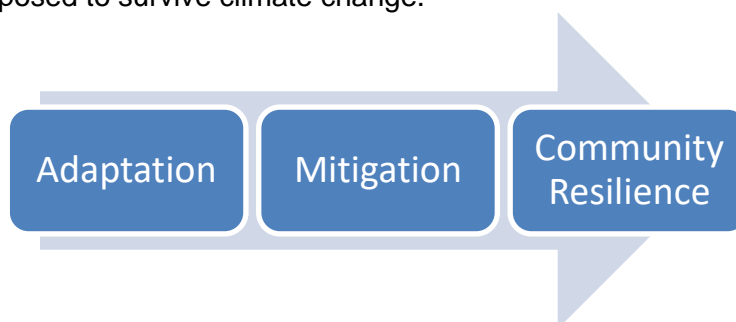
Climate change impacts weather patterns (more intense and less frequent rain events), creates high risk of a natural hazard (such as flooding) for vulnerable areas (for example the CBD) and vulnerable people/businesses.

Council must focus on both mitigations and adaptations as well as a reduction in greenhouse gas emissions so that our communities can survive and use their experiences to thrive despite climate change. Recent events (drought, flooding and bushfire) have impacted our community's capacity to adapt. To assist our community to withstand the cumulative impacts and ongoing changes to the climate, the policy statement should be directed towards building climate resilience.

Climate resilience can be defined as the capacity of a socio-ecological system to successfully adapt to climate change in the face of disturbance, stress and adversity. Resilience enables the community to better adapt, reorganize, and evolve leaving it better prepared for future climate change impacts. The key components of resilience include the capacity to successfully adapt in the face of disturbance, stress or adversity. All resilience definitions include a) a stress stimuli and b) a collective response to the stimuli. An entity is described as resilient even if after surviving the stress stimuli they are able to survive in a minimal state as they did before the stress.

However, Council does not seek a 'minimal state' of survival. Rather, we want our communities to learn, adapt and thrive – to learn from their experiences and to be better prepared (transformed) for the future. To achieve a Climate Resilient community requires actions to:

- reduce human-induced climate change and its impacts, including both mitigation and adaptation;
- ensure that effective institutions, strategies, and choices for risk management are identified, implemented, and sustained;
- create a policy environment that supports communities to learn, adapt and thrive and therefore transform as opposed to survive climate change.



The Purpose of LCC Climate Resilience Policy is:

1. To demonstrate Lismore City Council's leadership in identifying and responding to climate change risk, by promoting, supporting and delivering climate change action and transformative community resilience planning.
2. To support long term financial planning, asset management, strategic planning, and other key LCC processes with consistent, timely and scientifically sound information and local climate projections related to climate change.
3. To embed climate change adaptation and resilience as a core component of Council's strategic planning, processes and operations.
4. To ensure all functions and activities of council consider climate change adaptation and resilience for a more resilient organisation and community.

Comments

Finance

Not required

Public consultation

Staff are requesting approval to commence 28-day exhibition of the Climate Resilience Policy. On the completion of the 28-day exhibition period, comments will be collated and reported back to Council for their information and an amended policy will be brought to Council for their adoption.

Conclusion

The Climate Resilience Policy establishes a strategic policy framework to embed the goal of climate resilience for both LCC and for the community within the LGA. This policy identifies Council's commitment to addressing mitigations and adaptations towards achieving climate resilience for the Lismore City Council and its LGA community.

Attachment/s

1. [Climate Resilience Policy](#) (Over 7 pages)

Report

Subject	Annual Pecuniary Interest Returns 2020/2021
TRIM Record No	BP20/643:EF19/22-03
Prepared by	Executive Assistant - Mayor and Councillors
Reason	Pecuniary Interest Returns are required to be tabled at a Council meeting
Strategic Theme	Leadership and participation
Strategy	We provide effective management and responsible governance.
Action	Ensure the efficient and effective operation of Council.

Executive Summary

Pecuniary Interest Returns for Councillors and Designated staff are required to be completed and tabled at a Council meeting.

The 2020/2021 Pecuniary Interest Returns have been completed and are now submitted to Council for acknowledgement.

Recommendation

That the report be received, and the tabled 2020/2021 Pecuniary Interest Returns be acknowledged.

Background

The Office of Local Government has issued a set of guidelines associated with the administrative process for the completion of Pecuniary Interest Returns. These guidelines require the Pecuniary Interest Returns are tabled at a Council meeting.

In accordance with the guidelines, the 2020/2021 Pecuniary Interest Returns for Councillors and Designated Staff have been completed and are tabled.

The following is the list of Designated Persons:

- General Manager
- Senior staff (Directors) as defined under s332 of the *Local Government Act 1993*
- Any member of staff or council delegate who is identified in the exercise of a function that could give rise to a conflict of interest (defined as Program Managers, Public Officer/Complaints Coordinator)
- Councillors

Public consultation

Not required

Attachment/s

There are no attachments for this report.

Report

Subject	Investments - September 2020
TRIM Record No	BP20/542:EF20/252
Prepared by	Management Accountant
Reason	Required by Local Government Act 1993, Local Government (General) Regulation 2005 and Council's Investment Policy
Strategic Theme	Leadership and participation
Strategy	We provide effective management and responsible governance.
Action	Ensure the efficient and effective operation of Council.

Executive Summary

Investments as at 30 September 2020 are estimated to be \$86,167,000.

The interest rate reported for September 2020 is estimated to be 1.29% which is above the 90 Day Bank Bill Index of 0.09%. The final interest return may vary due to actual returns achieved on investments advised after month end.

Recommendation

That the report be received and noted.

Background

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

Report on Investments

- | | |
|---|---------------------|
| • <i>Confirmation of Investments – at Market Value – 31 August 2020</i> | <i>\$85,537,000</i> |
| • <i>Estimated Investments – at Market Value – 30 September 2020</i> | <i>\$86,167,000</i> |

Investments increased from the time of writing the August 2020 Investment Report to the end of the month by \$2.66 million. This increase was mainly due to payments being received from Roads & Maritime Service of \$994,000, Grant Funding for the Oakes/Crozier redevelopment project of \$506,200 and the ATO BAS refund of \$280,200 as well as rates instalments due 31 August being received close to month end.

The total funds held in the Business On Line account are still slightly higher than usual. This is due to many institutions still not taking funds as their liquidity levels are too high. This will reduce into October as creditors and staff payments are made at a time when there is not a lot of income due to be received.

The current rate of return on investments for September 2020 is estimated to be 1.29% using actual returns where available, and estimates based on the previous period balances and interest rates. This is above the 90 Day Bank Bill Index of 0.09%.

The estimated interest earned for September 2020 is less than the pro rata 2020/21 Budget. Estimated interest earned for September 2020 is \$264,582 compared to the pro rata budget of \$316,300. This is an unfavourable variance for the month of \$51,718. The current investing environment has altered dramatically in the past months since the budget process commenced. A budget adjustment will be reported as part of the September Quarterly Budget Review Statement.

Compliance with New Policy Requirements

A new investment policy was adopted by Council in May 2020. This policy shows a move towards framework suggested by TCorp to comply with their borrowing requirements into the future.

A plan to move towards the new policy requirements is being followed, but as can be expected, this will take time, especially in the current COVID climate. As investments come due, wherever possible they are moved to comply with the new policy. No deposits will be broken early to fit within the new framework.

The following is a summary of where Council's investments currently sit in relation to the adopted policy requirements:-

Long Term Rating	Maximum Portfolio Limit	Current Holding	Divestment Required
AAA	100%		
AA+ to AA-	100%	38%	
A+ to A	100%	13%	
A-	40%		
BBB+	20%	12%	
BBB	10%	17%	7%
BBB- and below – Local ADI's	5%	2%	
BBB- and below - other	5%	17%	12%
TCorp	100%		

Fossil Free investments

As part of the new policy framework and within the limits of prevailing Legislation, Council's investments will be made in consideration of the principals of ethical investment management.

To meet the new adopted Investment Policy requirements, the holdings in some institutions that are fossil fuel free have been divested as they do not meet the new rating criteria. Investments in institutions that are not fossil fuel free but provide green term deposits and bonds are being investigated and will be considered within the investment framework as they become available and fit within the policy criteria.

Following is a summary of the movement from 31 August 2020:-

Type of Investment	As at 31 August 2020			As at 30 September 2020		
	Number of Institutions	Value of Investments	% of Portfolio	Number of Institutions	Value of Investments	% of Portfolio
No Investment in Fossil Fuel Industry	13	\$40,000,000	87%	13	\$43,000,000	50%
Investment in Fossil Fuel Industry	5	\$42,877,000	13%	5	\$43,167,000	50%

The information for the assessment has been sourced from the website www.marketforces.org.au which is an affiliate project of the Friends of the Earth Australia. This is still considered the best information available to make this assessment.

Comments

Finance

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

Conclusion

A report on investments is required to be submitted to Council monthly. As at 30 September 2020, investments total \$86,167,000 and the annualised rate of return is estimated at 1.29%.

Attachment/s

1. [↓](#) Capital Value Movements including name of institution, purchase date and maturity
2. [↓](#) Estimated Interest showing interest rate and estimated interest earned for the year
3. [↓](#) Total Investment Portfolio held by month and Weighted Average Interest Rate graphical
4. [↓](#) Investment by Type - Graphical
5. [↓](#) Investment by Institution as a percentage of total portfolio graphical

**Capital Value Movements
Summary of Investments held as at
30 September 2020**

Name of Investment / & Counterparty	Type of Investment	Rating (Note 3)	Purchase Date	Maturity Date	Current Market Value (Note 1)
Cash Based Returns					
CBA Business On Line Banking A/C	Cash Management Account	AA-	N/A	N/A	\$ 11,167,000
AMP Bank Cash Management Account	Cash Management Account	BBB	N/A	N/A	\$ 3,000,000
National Australia Bank	Term Deposit	AA-	2/6/2020	30/9/2020	\$ 3,000,000
IMB Bank	Term Deposit	BBB	23/4/2020	22/10/2020	\$ 1,000,000
National Australia Bank	Term Deposit	AA-	27/5/2020	28/10/2020	\$ 3,000,000
Bank of Sydney Ltd	Term Deposit	Not Rated	30/6/2020	28/10/2020	\$ 1,000,000
MyState Bank Limited	Term Deposit	BBB	12/5/2020	10/11/2020	\$ 1,000,000
Auswide Bank Ltd	Term Deposit	BBB-	11/8/2020	10/11/2020	\$ 1,000,000
AMP Bank	Term Deposit	BBB	19/5/2020	16/11/2020	\$ 3,000,000
Bank of Sydney Ltd	Term Deposit	Not Rated	17/8/2020	16/11/2020	\$ 1,000,000
Suncorp	Term Deposit	A+	23/4/2020	19/11/2020	\$ 1,000,000
IMB Bank	Term Deposit	BBB	24/8/2020	24/11/2020	\$ 1,000,000
Suncorp	Term Deposit	A+	28/7/2020	25/11/2020	\$ 2,000,000
MyState Bank Limited	Term Deposit	BBB	27/2/2020	27/11/2020	\$ 1,000,000
National Australia Bank	Term Deposit	AA-	30/6/2020	2/12/2020	\$ 2,000,000
Auswide Bank Ltd	Term Deposit	BBB-	26/8/2020	2/12/2020	\$ 1,000,000
IMB Bank	Term Deposit	BBB	16/9/2020	16/12/2020	\$ 1,000,000
Westpac Banking Corporation	Term Deposit	AA-	19/6/2020	19/12/2020	\$ 4,000,000
Westpac Banking Corporation	Term Deposit	AA-	30/6/2020	30/12/2020	\$ 4,000,000
ME Bank	Term Deposit	BBB	11/8/2020	8/1/2021	\$ 1,000,000
Commonwealth Bank of Australia	Term Deposit	AA-	27/7/2020	20/1/2021	\$ 2,000,000
ME Bank	Term Deposit	BBB	16/9/2020	20/1/2021	\$ 1,000,000
Bank of Queensland	Term Deposit	BBB+	29/7/2020	29/1/2021	\$ 2,000,000
Suncorp	Term Deposit	A+	1/9/2020	29/1/2021	\$ 3,000,000
Bank of Us (B & E Ltd)	Term Deposit	Not Rated	12/8/2020	11/2/2021	\$ 1,000,000
Bank of Queensland	Term Deposit	BBB+	11/8/2020	11/2/2021	\$ 2,000,000
Auswide Bank Ltd	Term Deposit	BBB-	7/8/2019	16/2/2021	\$ 1,000,000
Summerland Credit Union	Term Deposit	Not Rated	17/2/2019	17/2/2021	\$ 1,000,000
Suncorp	Term Deposit	A+	24/8/2020	22/2/2021	\$ 4,000,000
MyState Bank Limited	Term Deposit	BBB	24/9/2020	25/2/2021	\$ 1,000,000
National Australia Bank	Term Deposit	AA-	2/6/2020	26/2/2021	\$ 2,000,000
Police Credit Union Ltd (SA)	Term Deposit	Not Rated	19/3/2020	19/3/2021	\$ 1,000,000
ME Bank	Term Deposit	BBB	2/9/2020	4/3/2021	\$ 1,000,000
Bank of Sydney Ltd	Term Deposit	Not Rated	10/9/2020	15/4/2021	\$ 1,000,000
Suncorp	Term Deposit	A+	22/9/2020	20/4/2021	\$ 1,000,000
Australian Military Bank Ltd	Term Deposit	Not Rated	20/11/2019	19/5/2021	\$ 1,000,000
Auswide Bank Ltd	Term Deposit	BBB-	24/9/2020	25/3/2021	\$ 1,000,000
Bendigo Adelaide Bank	Term Deposit	BBB+	24/8/2020	24/5/2021	\$ 1,000,000
Police Credit Union Ltd (SA)	Term Deposit	Not Rated	29/1/2020	28/7/2021	\$ 1,000,000
P & N Bank	Term Deposit	BBB	5/8/2016	5/8/2021	\$ 1,000,000

**Capital Value Movements
Summary of Investments held as at
30 September 2020**

Name of Investment / & Counterparty	Type of Investment	Rating (Note 3)	Purchase Date	Maturity Date	Current Market Value (Note 1)
Australian Military Bank Ltd	Term Deposit	Not Rated	9/8/2019	9/8/2021	\$ 1,000,000
Bendigo Adelaide Bank	Term Deposit	BBB+	12/8/2020	12/8/2021	\$ 2,000,000
Commonwealth Bank of Australia - Green TD	Term Deposit	AA-	1/9/2020	1/9/2021	\$ 2,000,000
Bendigo Adelaide Bank	Term Deposit	BBB+	28/8/2019	2/9/2021	\$ 1,000,000
Bendigo Adelaide Bank	Term Deposit	BBB+	20/8/2020	18/8/2022	\$ 2,000,000
Auswide Bank Ltd	Term Deposit	BBB-	20/8/2019	23/8/2022	\$ 1,000,000
Rabobank	Term Deposit	Not Rated	30/7/2018	1/8/2023	\$ 1,000,000
Rabobank	Term Deposit	Not Rated	13/12/2018	13/12/2023	\$ 1,000,000
Investment on Hand					\$ 86,167,000

Investments Redeemed from 22/08/2020 to 25/09/2020 (Note 2)

Bendigo Adelaide Bank	Term Deposit	BBB+	24/2/2020	24/8/2020	\$ 1,000,000
Rabobank	Term Deposit	Not Rated	24/8/2015	24/8/2020	\$ 1,000,000
IMB Bank	Term Deposit	BBB	24/2/2020	24/8/2020	\$ 1,000,000
Australian Military Bank Ltd	Term Deposit	Not Rated	23/8/2019	25/8/2020	\$ 1,000,000
Auswide Bank Ltd	Term Deposit	BBB-	24/8/2018	26/8/2020	\$ 1,000,000
ME Bank	Term Deposit	BBB	30/6/2020	2/9/2020	\$ 1,000,000
Australian Military Bank Ltd	Term Deposit	Not Rated	4/9/2019	3/9/2020	\$ 1,000,000
Bank of Sydney Ltd	Term Deposit	Not Rated	11/6/2020	10/9/2020	\$ 1,000,000
IMB Bank	Term Deposit	BBB	16/3/2020	16/9/2020	\$ 1,000,000
ME Bank	Term Deposit	BBB	12/6/2020	16/9/2020	\$ 1,000,000
Hunter United Employees Credit Union	Term Deposit	Not Rated	17/3/2020	17/9/2020	\$ 1,000,000
Suncorp	Term Deposit	A+	25/2/2020	22/9/2020	\$ 1,000,000
Auswide Bank Ltd	Term Deposit	BBB-	24/9/2018	24/9/2020	\$ 1,000,000
MyState Bank Limited	Term Deposit	BBB	24/6/2020	24/9/2020	\$ 1,000,000

\$ 14,000,000

- Note 1: Market Value is the Capital Value of the Investment.
- Note 2: These investments were redeemed during the period. They are not part of the Balance of Investments Held.
- Note 3: These Counterparties & Products are authorised under the Minister's Investment Order. The rating is based on the entities long term S & P Rating.
- Note 4: "Indicative" Source of Funds based on the restricted/unrestricted fund balances reported in the 2018/19 Financial Reports.

"Indicative" Source of Funds (Note 4)

Externally Restricted - Water Fund	12,063,380
Externally Restricted - Wastewater Fund	34,466,800
External Restricted - Other	19,818,410
Internally Restricted	18,956,740
Unrestricted	861,670
	<u>\$ 86,167,000</u>

on Investments
for September 2020

Name of Investment / & Counterparty	Type of Investment	Rating	Annualised Coupon / Interest Rate	Current market Value	Estimated Interest for Period	Weighted Interest for Period
Cash Based Returns						
CBA Business On Line Banking A/C	Cash Management Account	AA-	0.25%	\$ 11,167,000	\$ 2,295	0.03%
AMP Bank Cash Management Account	Cash Management Account	BBB	0.55%	\$ 3,000,000	\$ 1,356	0.02%
National Australia Bank	Term Deposit	AA-	0.86%	\$ 3,000,000	\$ 2,121	0.03%
IMB Bank	Term Deposit	BBB	1.25%	\$ 1,000,000	\$ 1,027	0.01%
National Australia Bank	Term Deposit	AA-	0.89%	\$ 3,000,000	\$ 2,195	0.03%
Bank of Sydney Ltd	Term Deposit	Not Rated	0.75%	\$ 1,000,000	\$ 616	0.01%
MyState Bank Limited	Term Deposit	BBB	1.25%	\$ 1,000,000	\$ 1,027	0.01%
Auswide Bank Ltd	Term Deposit	BBB-	0.70%	\$ 1,000,000	\$ 575	0.01%
AMP Bank	Term Deposit	BBB	1.65%	\$ 3,000,000	\$ 4,068	0.06%
Bank of Sydney Ltd	Term Deposit	Not Rated	0.80%	\$ 1,000,000	\$ 658	0.01%
Suncorp	Term Deposit	A+	1.30%	\$ 1,000,000	\$ 1,068	0.02%
IMB Bank	Term Deposit	BBB	0.55%	\$ 1,000,000	\$ 452	0.01%
Suncorp	Term Deposit	A+	0.73%	\$ 2,000,000	\$ 1,200	0.02%
MyState Bank Limited	Term Deposit	BBB	1.65%	\$ 1,000,000	\$ 1,356	0.02%
National Australia Bank	Term Deposit	AA-	0.80%	\$ 2,000,000	\$ 1,315	0.02%
Auswide Bank Ltd	Term Deposit	BBB-	0.70%	\$ 1,000,000	\$ 575	0.01%
IMB Bank	Term Deposit	BBB	55.00%	\$ 1,000,000	\$ 21,096	0.30%
Westpac Banking Corporation	Term Deposit	AA-	0.88%	\$ 4,000,000	\$ 2,893	0.04%
Westpac Banking Corporation	Term Deposit	AA-	0.87%	\$ 4,000,000	\$ 2,860	0.04%
ME Bank	Term Deposit	BBB	0.60%	\$ 1,000,000	\$ 493	0.01%
Commonwealth Bank of Australia	Term Deposit	AA-	0.74%	\$ 2,000,000	\$ 1,216	0.02%
ME Bank	Term Deposit	BBB	0.60%	\$ 1,000,000	\$ 230	0.00%
Bank of Queensland	Term Deposit	BBB+	0.80%	\$ 2,000,000	\$ 1,315	0.02%
Suncorp	Term Deposit	A+	0.70%	\$ 3,000,000	\$ 1,668	0.02%
Bank of Us (B & E Ltd)	Term Deposit	Not Rated	0.50%	\$ 1,000,000	\$ 260	0.00%
Bank of Queensland	Term Deposit	BBB+	0.80%	\$ 2,000,000	\$ 877	0.01%
Auswide Bank Ltd	Term Deposit	BBB-	1.95%	\$ 1,000,000	\$ 1,603	0.02%
Summerland Credit Union	Term Deposit	Not Rated	2.95%	\$ 1,000,000	\$ 2,425	0.03%
Suncorp	Term Deposit	A+	0.70%	\$ 4,000,000	\$ 2,301	0.03%
MyState Bank Limited	Term Deposit	BBB	0.65%	\$ 1,000,000	\$ 107	0.00%
National Australia Bank	Term Deposit	AA-	0.92%	\$ 2,000,000	\$ 1,512	0.02%
Police Credit Union Ltd (SA)	Term Deposit	Not Rated	1.90%	\$ 1,000,000	\$ 1,562	0.02%
ME Bank	Term Deposit	BBB	0.60%	\$ 1,000,000	\$ 460	0.01%
Bank of Sydney Ltd	Term Deposit	Not Rated	0.90%	\$ 1,000,000	\$ 493	0.01%
Suncorp	Term Deposit	A+	0.65%	\$ 1,000,000	\$ 142	0.00%
Australian Military Bank Ltd	Term Deposit	Not Rated	1.75%	\$ 1,000,000	\$ 1,438	0.02%
Auswide Bank Ltd	Term Deposit	BBB-	0.75%	\$ 1,000,000	\$ 123	0.00%
Bendigo Adelaide Bank	Term Deposit	BBB+	0.60%	\$ 1,000,000	\$ 493	0.01%
Police Credit Union Ltd (SA)	Term Deposit	Not Rated	1.75%	\$ 1,000,000	\$ 1,438	0.02%

on Investments
for September 2020

Name of Investment / & Counterparty	Type of Investment	Rating	Annualised Coupon / Interest Rate	Current market Value	Estimated Interest for Period	Weighted Interest for Period
P & N Bank	Term Deposit	BBB	3.35%	\$ 1,000,000	\$ 2,753	0.04%
Australian Military Bank Ltd	Term Deposit	Not Rated	1.90%	\$ 1,000,000	\$ 1,562	0.02%
Bendigo Adelaide Bank	Term Deposit	BBB+	0.70%	\$ 2,000,000	\$ 1,151	0.02%
Commonwealth Bank of Australia - Green TD	Term Deposit	AA-	0.71%	\$ 2,000,000	\$ 1,128	0.02%
Bendigo Adelaide Bank	Term Deposit	BBB+	1.60%	\$ 1,000,000	\$ 1,315	0.02%
Bendigo Adelaide Bank	Term Deposit	BBB+	0.70%	\$ 2,000,000	\$ 1,151	0.02%
Auswide Bank Ltd	Term Deposit	BBB-	1.80%	\$ 1,000,000	\$ 1,479	0.02%
RaboBank	Term Deposit	Not Rated	3.45%	\$ 1,000,000	\$ 2,836	0.04%
RaboBank	Term Deposit	Not Rated	3.35%	\$ 1,000,000	\$ 2,753	0.04%
Investment on Hand				\$ 86,167,000	\$ 85,042	1.21%

Note 1

Interest on Investments Redeemed during month to reporting date (25/09/20)

ME Bank	Term Deposit	BBB	0.75%	\$ 1,000,000	\$ 41	0.00%
Australian Military Bank Ltd	Term Deposit	Not Rated	1.70%	\$ 1,000,000	\$ 140	0.00%
Bank of Sydney Ltd	Term Deposit	Not Rated	1.20%	\$ 1,000,000	\$ 329	0.00%
IMB Bank	Term Deposit	BBB	1.25%	\$ 1,000,000	\$ 548	0.01%
ME Bank	Term Deposit	BBB	0.90%	\$ 1,000,000	\$ 395	0.01%
Hunter United Employees Credit Union	Term Deposit	Not Rated	1.95%	\$ 1,000,000	\$ 908	0.01%
Suncorp	Term Deposit	A+	1.45%	\$ 1,000,000	\$ 874	0.01%
Auswide Bank Ltd	Term Deposit	BBB-	2.90%	\$ 1,000,000	\$ 1,907	0.03%
MyState Bank Limited	Term Deposit	BBB	1.05%	\$ 1,000,000	\$ 690	0.01%

1.29%

\$ 90,873

Investment Income Earned vs. Budget Year to Date

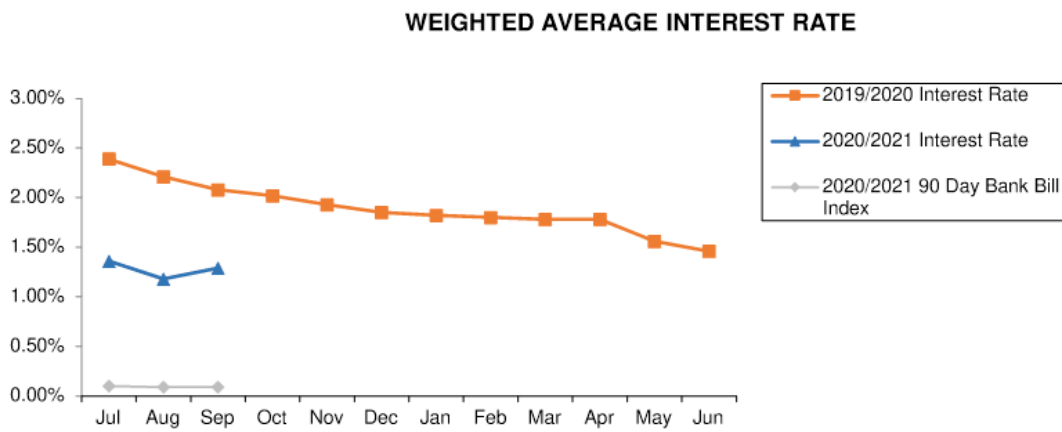
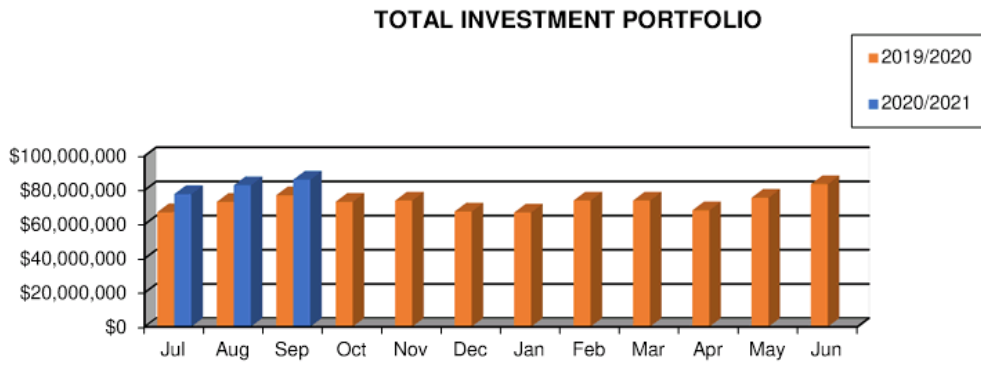
Estimated interest earned to date	\$ 264,582
Pro Rata annual budget	\$ 316,300

Note 1: Estimated Interest for Period is calculated by multiplying the annualised rate by the purchase price and reflects both interest accrued and received.

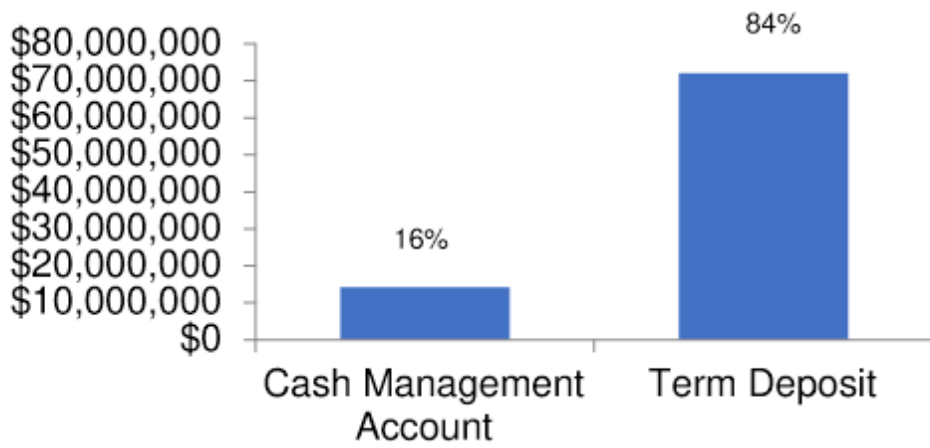
Note 4: "Indicative" Interest Earned based on the restricted/unrestricted fund balances reported in the 2018/19 Financial Reports.

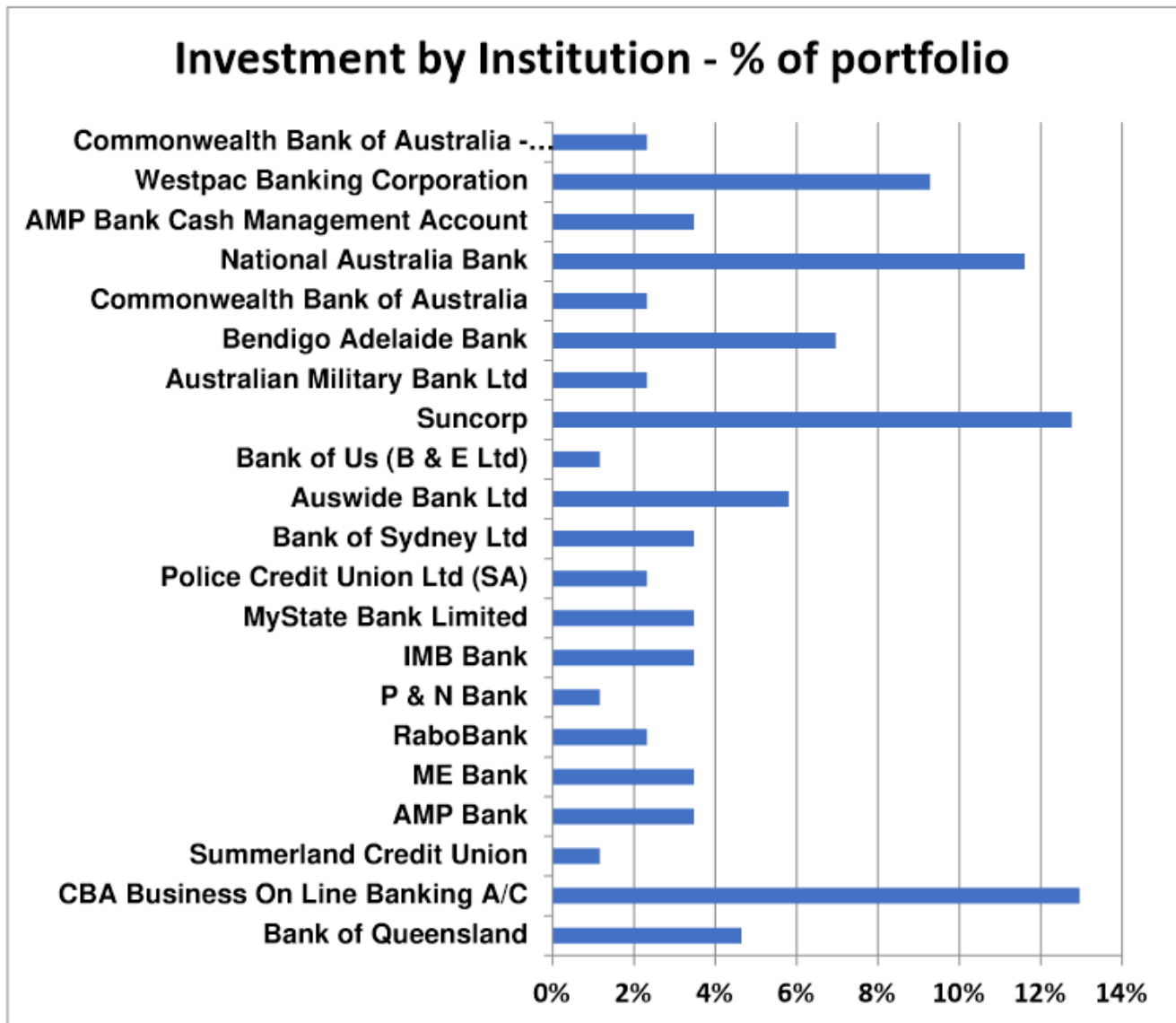
"Indicative" Interest Earned

Externally Restricted - Water Fund	\$ 12,722
Externally Restricted - Wastewater Fund	\$ 36,349
External Restricted - Other	\$ 20,901
Internally Restricted	\$ 19,992
Unrestricted	\$ 909
	<u>\$ 90,873</u>



INVESTMENT BY TYPE





Report

Subject	Council Financial Report - October 2020
TRIM Record No	BP20/747:EF09/580-02
Prepared by	Manager Finance
Reason	To inform Councillors of anticipated material financial variances to the adopted budget. Note this report is for information purposes only and does not contain finalised numbers. It does not supplant the Quarterly Budget Review Statement which is the formal mechanism for seeking changes to the adopted budget.
Strategic Theme	Leadership and participation
Strategy	We provide effective management and responsible governance.
Action	Ensure the efficient and effective operation of Council.

Recommendation

That Councillors note the contents of the report and the potential impact on Council's 2020/21 Operational Plan.

Background

The 2020/21 Operational Plan was adopted on 16 June 2020. Given the size and complexity of Council's operations, the impact external factors can have on them (e.g. COVID-19), and the nature of forecasting itself, the actual revenue and expenditure of Council can result in material variances from the adopted budget.

The purpose of this monthly report is to inform Councillors of any such variances.

It is important to note that the items brought to Council in this report do not represent finalised adjustments, nor does the report supplant the Quarterly Budget Review Statement, which is the formal process whereby Councillors are requested to adopt changes to the previously adopted budget.

1. Carry Forwards, Re-votes and Reserve Movements

The 2019-20 Operational Plan budget included a number of projects that were not completed within the financial year or were delayed due to the impact of COVID-19 pandemic.

In accordance with the following provision the budgets for these projects have been carried over into 2020-21 year:

Local Government (General) Regulation 2005 Carried Forward - Part 9 Division 5 Clause 211 Authorisation of Expenditure - (3) All such approvals and votes lapse at the end of a council's financial year. However, this subclause does not apply to approvals and votes relating to:

- (a) work carried out or started, or contracted to be carried out, for the council, or*
- (b) any service provided, or contracted to be provided, for the council, or*
- (c) goods or materials provided, or contracted to be provided, for the council, or*
- (d) facilities provided or started, or contracted to be provided, for the council, before the end of the year concerned, or to the payment of remuneration to members of the council's staff.*

Information has been provided to Council previously as to the projects and amounts to be carried forward. The projects were fully funded and there is no net cash impact to Council.

Summary of carried forward works:

	Total	Externally Restricted Funded Projects	Grant Funded Projects	Internally Restricted Projects - Unexpended Loan Funds	Internally Restricted Projects - Reserve Funded/General Revenues
Operating Expenses	5,041,200	662,900	1,704,400	-	2,673,900
Total Capital Expenses:	7,605,600	1,556,400	1,669,600	1,317,700	3,061,900
Total Amount of Carried Forward Works	12,646,800	2,219,300	3,374,000	1,317,700	5,735,800

The impact on the Operational Plan for carried works is:

Net Operating Result for the Year	(3,432,400)
Net Operating Result before Capital Grants and Contributions	(3,527,600)
Net Cash Result	-

2. Depreciation

Depreciation has been revised to reflect the 2020 actual and the impact of the 2020 revaluation of Transport assets.

There has been a significant increase in the 2021 forecast depreciation expense as a result of the revaluation of transport assets.

Depreciation is a non-cash item and therefore there is no net cash impact to Council.

Fund	Adopted	Revised Depreciation	Adjustment Required
General	15,310,100	22,653,700	(7,343,600)
Water	3,187,200	3,236,100	(48,900)
Wastewater	5,459,200	5,685,400	(226,200)
Total	23,956,500	31,575,200	(7,618,700)

The impact of the on the Operational Plan for Depreciation is:

Net Operating Result for the Year	(7,618,700)
Net Operating Result before Capital Grants and Contributions	(7,618,700)
Net Cash Result	-

3. Insurance

Council finalised the 2020/21 insurance renewal in the period which has highlighted an increase in insurance costs from the adopted budget.

The overall increase is \$104,000 across all insurance categories.

The impact on the Operational Plan for Insurance is:

Net Operating Result for the Year	(104,000)
Net Operating Result before Capital Grants and Contributions	(104,000)
Net Cash Result	(104,000)

4. 2020 Financial Reports

The 2020 Financial reports are in the process of being audited. Upon completion of the audit the accounts will be presented to Council, this is anticipated to be for the November Ordinary Council meeting.

Comments

Finance

As contained within the report.

Other staff comments

N/a

Public consultation

N/a

Conclusion

The total impact on the Operational Plan of the identified items is:

Net Operating Result for the Year	(10,591,300)
Net Operating Result before Capital Grants and Contributions	(10,686,500)
Net Cash Result	(104,000)

Final changes for these items will be presented in the next Quarterly Budget Review Statement.

Attachment/s

There are no attachments for this report.

Report

Subject	2019/20 Reserves (Internally Restricted)
TRIM Record No	BP20/788:EF19/638
Prepared by	Management Accountant
Reason	Annual report on internally restricted reserve balances and movements, and policy review
Strategic Theme	Leadership and participation
Strategy	We provide effective management and responsible governance.
Action	Ensure the efficient and effective operation of Council.

Executive Summary

For financial reporting purposes Council must categorise its cash, cash equivalents and investments as either externally restricted, internally restricted or unrestricted. Funds that are externally restricted, typically by legislation, can only be used for the purpose they were received. Funds that are internally restricted can be used for any purpose determined by Council.

As internally restricted funds can be used for any purpose determined by Council, the Council adopted Policy 1.5.10 – Reserves (Internally Restricted) to provide guidance on the criteria to be applied for funds to be internally restricted. While specific purpose unexpended loans are also considered internally restricted funds, the fact they are borrowed for a specific purpose and typically used for that purpose results in them not being reported as reserves.

Council's policy requires an annual report as at 30 June to be submitted to Council which shows reserve movements and balances. The policy categorised reserves as follows:-

- Annual Budget or Long-Term Financial Plan (LTFP)
- Held for Other Parties
- Special Rate Variation
- Carry Forward or Revote Works
- Council Resolution
- Available Funds

There are several management recommended reserves. A summary of these is provided in the report. Subject to Council approval the amounts are included under the heading Council Resolution and Carry Forward or Revote Works.

While reserves are typically held as cash, cash equivalent and investments, it is accepted that they may also be held as working capital (debtors) or be internally loaned.

Based on the policy, as at 30 June 2020 reserves totalled \$21.49 million. This amount comprises \$20.97 million in cash, cash equivalent and investments and \$523,100 in internal loans.

Commentary on reserves is provided within the report and a summary and detailed listing of reserves (internally restricted) as at 30 June 2020 are attached.

Policy 1.5.10 – Reserves (Internally Restricted) has been reviewed with no changes recommended.

Recommendation

That Council adopts the 2019/20 Reserves (Internally Restricted) annual report which has reserves of \$21,494,500 as at 30 June 2020 comprising \$20,971,400 in cash, cash equivalent and investments and \$523,100 in internal loans.

Background

Policy 1.5.10 – Reserves (Internally Restricted) requires an annual report to be submitted to Council detailing all reserve movements. The purpose of this report is to satisfy that requirement.

As at 30 June 2020, reserves totalled \$21.49 million comprising \$20.97 million in cash, cash equivalent and investments and \$523,100 in internal loans.

There has been an overall increase in the amount of reserves from 2018/19 by \$3,515,900.

Commentary

Provided below is a description of the individual reserve categories. This should be read in-conjunction with the 2019/20 Reserves (Internally Restricted) Summary attachment which shows the Reserve Balances 1/7/19, Transfer to Reserves and Transfer from Reserves during the year, and the Reserve Balances 30/6/20, and the 2019/20 Reserves (Internally Restricted) Detail that shows the closing amount for all reserves held.

Annual Budget – Balance \$Nil

The funds held in this reserve are for specific works, services or initiatives included in the 2020/21 Budget.

Held for Other Parties – Balance \$Nil

The funds held in this reserve acknowledge that Council holds funds on behalf of other parties.

Special Rate Variation – Balance \$803,600

The funds held in this reserve reflect unexpended special rate variation funds or funds held to implement special rate variation purposes.

Carry Forward and Revote Works – Balance \$5,786,600

The funds held in this reserve relate to carry forward or revote amounts from 2019/20 to 2020/21. This list excludes carry forward or revote works funded from externally restricted funds.

Carry forward amounts relate to where approved budgets for works, services, goods, materials and facilities have started or are contracted to start before the end of the financial year and will continue to completion in the following financial year.

Revote amounts relate to where approved budgets have not commenced before the end of the financial year and it is intended to seek approval to proceed in the following financial year.

Council Resolution – Balance \$11,931,200

The funds held in this reserve relate to specific Council resolutions which may not be reflected in the annual budget at this time.

This category also includes items recommended for inclusion by Management as they do not meet specific reserve categories. These are reported for the Council to determine if they are reserved and include:-

Finance – Financial Assistance Grant – General – 50% of 2020/21 in advance	2,319,000
Finance – Financial Assistance Grant – Roads – 50% of 2020/21 in advance	1,052,400
Recreation & Cultural Facilities – Art Gallery – Youth Week matching funds	2,300
Integrated Planning – Works Associated with Development – Flood Plain Management Plan	10,000
Commercial Services – Northern Rivers Quarry – Asphalt Dismantle and Refuel/Truck Washdown Project – Stage 2 & 3	119,300
Commercial Services – Waste Disposal – Depot Maintenance – Site Access Gate Safety Upgrade	347,900
Commercial Services – Fleet & Workshop – Capital Replacement	600,000
Total	4,450,900

Available Funds – Balance \$2,973,100

The funds held in this reserve are unallocated funds available to deliver Council's future priorities as planned/approved in its strategic documents. A review of the Reserve Policy (including the Available Funds) is being undertaken and will be reported to the 10th November 2020 Council meeting.

Internal Loans

Internal loans from reserves are utilised to minimise borrowing costs and provide ready cash for special projects. Internal loans are typically short term and are considered prudent as historically borrowing interest rates were between 4% - 5.5% compared to the interest forgone on investing funds of 1% - 2%.

As at 30 June 2020 Council has a total of \$523,100 in internal loans which fall into two categories being a) those to fund overdrawn reserves to be repaid in an ad-hoc approach – \$375,300 and b) specific initiatives borrowings program with structured repayment – \$147,800.

Category A

- Lismore Base Hospital Parking Precinct – \$375,300. The Council invested in car parking infrastructure in response to the development of the Lismore Base Hospital. This is anticipated to be repaid by parking revenues over the next 6 to 7 years.

Category B

The balances of internal loans for specific initiatives as at 30 June 2020 are:

Purpose of Loan	Balance at 30/06/20
Renewable Energy Master Plan	147,800
Total	\$147,800

Policy Review

It is a requirement of Policy 1.5.10 – Reserves (Internally Restricted) that it be reviewed annually. A review of the Reserve Policy is being undertaken and will be reported to the 10th November 2020 Council meeting.

Attachment/s

1. [2019/20 Reserves \(Internally Restricted\) Summary](#)
2. [2019/20 Reserves \(Internally Restricted\) Detail](#)

<i>2019/20 RESERVES (INTERNALLY RESTRICTED) SUMMARY</i>										
Reserves	Working Capital	Internal Loans	Cash	Reserve Balances 1/7/19	Transfer to Reserves	Transfer from Reserves	Reserve Balances 30/06/20	Working Capital	Internal Loans	Cash
Annual Budget	0	0	1,874,600	1,874,600	0	1,874,600	0	0	0	0
Held for Other Parties	0	0	0	0	0	0	0	0	0	0
Special Rate Variation	0	0	439,100	439,100	514,700	150,200	803,600	0	0	803,600
Carry Forward or Revote Works	0	0	3,699,000	3,699,000	5,786,600	3,699,000	5,786,600	0	0	5,786,600
Council Resolution	1,565,800	3,497,600	6,902,500	11,965,900	2,835,300	2,870,000	11,931,200	0	0	11,931,200
Available Funds	0	0	0	0	2,973,100	0	2,973,100	0	523,100	2,450,000
TOTAL RESERVES	1,565,800	3,497,600	12,915,200	17,978,600	12,109,700	8,593,800	21,494,500	0	523,100	20,971,400

2019/20 RESERVES (INTERNALLY RESTRICTED) DETAILED

Annual Budget or LTFFP - Balance \$Nil	30/06/2020
Annual Budget or LTFFP	0
	0
Held for Other Parties - Balance \$Nil	
North East Weight of Loads Group (NEWLOG)	0
	0
Special Rate Variation - Balance \$803,600	
Business Promotion	231,600
CitySafe	358,900
Biodiversity Management Strategy	213,100
	803,600
Carry Forward or Revote Works - Balance \$5,786,600	
Asset Management - Survey & Design - Purchase of Survey Equipment	8,300
Asset Management - Survey & Design - Traffic Facilities	7,400
Asset Management - Facilities & Property Management - Native Title Claim Advice	13,300
Asset Management - Facilities & Property Management - Non Recoverable Land Costs - Krauss Avenue	14,800
Asset Management - Oliver Avenue Grant Project Application	9,200
Asset Management - Assessment of Security Systems	9,200
Asset Management - Growth Corridor - CBD Office Building	24,300
Asset Management - Facilities & Property Management - General Land Acquisitions for Roads	210,500
Commercial Services - Lismore Memorial Gardens - Treloar Roses	1,300
Commercial Services - Lismore Memorial Gardens - Cemetery Plaques	1,700
Commercial Services - Waste Disposal - Water and Leachate Management Plan	3,300
Commercial Services - Lismore Regional Airport - Security Lights Airport	3,900
Commercial Services - Lismore Regional Airport - OLS Survey	4,500
Commercial Services - Lismore Regional Airport - Engineering Services	4,500
Commercial Services - Lismore Regional Airport - Compliance Survey Runway Slopes	4,500
Commercial Services - Lismore Regional Airport - Windsock	6,500
Commercial Services - Fleet & Worksheet - Early Termination of Vehicle Lease	15,000
Commercial Services - Waste Disposal - Quarry Materials Rectification Works - Cell 3	18,000
Commercial Services - Lismore Regional Airport - installation of PAPI Lights	21,200
Commercial Services - Northern Rivers Quarry - Blakebrook Quarry State Approval Modification	21,900
Commercial Services - Fleet & Workshop - 2 Portable Traffic Signs	30,000
Commercial Services - Fleet & Workshop - Lease Costs	35,900
Commercial Services - Fleet & Workshop - Fuel Costs	38,200
Commercial Services - Waste Disposal - Transport Costs - Floodplain Quarry Project	65,000
Commercial Services - Northern Rivers Quarry - Wheel Washdown and Refuelling Area	72,300
Commercial Services - Waste Disposal - Lismore Waste Sorting Facility Enhancement and Expansion	80,000
Commercial Services - Lismore Regional Airport - Fence	84,700
Commercial Services - Waste Disposal - Crushed Concrete Materials - Roads Landfill	109,200
Commercial Services - Waste Disposal - Depot Maintenance - Wheel wash	120,000
Commercial Services - Waste Disposal - Depot Maintenance - Road Patching	150,000
*Commercial Services - Waste Disposal - Glass Processing Waste	170,000
Commercial Services - Waste Disposal - MRF - Production Costs - Glass Processing Costs	404,200
Civic Services - Roads - Beardow Street Slip	20,000
Civic Services - Roads - Rehabilitation Program	603,900
Civic Services - Roads - Resurfacing Program	1,304,400
Civic Services - Roads - Footpath Renewal Program	85,000
Civic Services - Roads - Galvanised Culvert Replacement Program	88,800
Civic Services - Roads - Drainage Construction Program	51,100
Civic Services - Bridges - Replacement Program	300,000
Civic Services - Parks & Recreation - Open Space Assets Capital/Renewal	39,300
Civic Services - Parks & Recreation - LED Event Signage Matching Funds	45,000
Civic Services - Parks & Recreation - Heritage Park Playground	100,000
Civic Services - Parks & Recreation - Albert Park Redevelopment Stage 2	11,400
Recreational & Cultural Facilities - Art Gallery - Lismore Laneways Design Consultant	1,900
Recreational & Cultural Facilities - GSAC - Repairs to Pool Back Wash Tank	18,500
Recreational & Cultural Facilities - Events Management Costs - Promotion & Advertising	23,600
Recreational & Cultural Facilities - Events Masters Games	28,100
Recreational & Cultural Facilities - Events - Lantern Parade	34,300
Recreational & Cultural Facilities - Events - NAIDOC Week	45,300
Recreational & Cultural Facilities - Events - Festival & Events Contributions/Incentives	52,300
Recreational & Cultural Facilities - LMB - Heat Pumps	61,700
Recreational & Cultural Facilities - GSAC - Skate Park Maintenance	8,800
People & Safety - Non Compensation Rehabilitation Costs	4,400
Integrated Planning - Strategic Planning - Crown Lands Plan of Management	5,600
Integrated Planning - IP & R and Engagement - Disability Action Plan	7,500
Integrated Planning - Strategic Planning - Ongoing Projects	8,300
Integrated Planning - Strategic Planning - Section 94 Plan Review	10,200
Integrated Planning - IP & R and Engagement - Community Engagement Consultant	16,100
Development & Compliance - DA Assessment CBD Parking study	19,200
Development & Compliance - Legal Costs	44,400
IS - Microsoft Security Configuration with Surebridge	4,600
IS - Phone upgrade project	9,700
IS - Civica/ Authority Upgrade	17,100
IS - Online Booking System	17,100
IS - Software renewal - Experian QAS	20,900
IS - Contractor Costs - Various Projects	39,000
IS - Enterprise Software Upgrade / Mobile App	45,000
Corporate Management - Economic Development - Marketing and Promotion Activities	45,000
Corporate Management - Communications & Media - Transformation Program	96,000
Corporate Management - Finance - Transformation Program	112,500
Corporate Management - Transformation Programme Projects	318,000
People & Safety - Compliance Training	124,000
General Manager - Transformation Program - Special Projects	135,800
	5,786,600
* Recommended by Management	

2019/20 RESERVES (INTERNALLY RESTRICTED) DETAILED

Council Resolution - Balance \$11,931,200	
Building Better Regional Cities - Per Lot Subsidy Promotion	3,768,900
Land Acquisition Management- Broadwater Sugar Mill	10,000
Pocket Park Sales	105,300
Risk Management (Insurance Premiums)	50,000
Employee Leave Entitlements	2,240,100
Interest on Reserves	191,700
Commercial Services - Northern Rivers Quarry - Inhalable Dust Extraction Fan for Blakebrook soil testing laboratory	12,000
Commercial Services - Lismore Regional Airport - Airport inspection ATV	30,000
Asset Management - Nimbin Pool	45,200
Asset Management - Laurie Allen Centre Flood Damage	44,000
Recreational & Cultural Facilities - DA Contributions to Public Art	49,200
Recreational & Cultural Facilities - Art Gallery Staff Costs: Relief Staff	11,000
Integrated Planning - Flood Mitigation - Voluntary Property Acquisition Program	70,500
Integrated Planning - Tucki Creek Corridor Acquisitions (Lismore Contributions Plan)	442,000
Integrated Planning - State of the Environment Report	19,300
Development & Compliance - On Site Sewerage Management	173,400
PPE - Admin Project Costs	3,500
Corporate Services - Procurement - Vendor Panel	48,200
Corporate Services - Information Management Plan	100,300
People & Safety - Enterprise Agreement	65,700
*Commercial Services - Northern Rivers Quarry - Asphalt dismantle & refuel/truck washdown install Project - Stages 2 & 3	119,300
*Commercial Services - Waste Disposal - Depot Maintenance - Site Access Gate Safety Upgrade	347,900
*Commercial Services - Fleet & Workshop - Capital replacement	600,000
*Recreational & Cultural Facilities - Youth Week	2,300
*Integrated Planning - Works Associated with Development - Flood Plain Management Plan	10,000
*Finance - Financial Assistance Grant - General - 50% 2020/21 paid in advance	2,319,000
*Finance - Financial Assistance Grant - Roads - 50% 2020/21 paid in advance	1,052,400
	11,931,200
* Recommended by Management	
Available Funds - Balance \$2,973,100	
Available Funds	2,973,100
	2,973,100

Committee Recommendations



Committee Recommendation

Traffic Advisory Committee Minutes - Meeting of 16 September 2020

Recommendation

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

Attachment/s

1. [↓](#) Traffic Advisory Committee Minutes - Meeting of 16 September 2020

MINUTES OF THE TRAFFIC ADVISORY COMMITTEE MEETING HELD IN THE GOONELLABAH COMMUNITY CENTRE MEETING ROOM 1, 27 OLIVER AVENUE, GOONELLABAH ON WEDNESDAY, 16 SEPTEMBER 2020 AT 10.00AM

Please note: These minutes are subject to confirmation at the next Council meeting. Decisions recorded in the draft minutes are subject to the Council's Code of Meeting Practice in relation to rescinding decisions.

Present

Mayor, Councillor Isaac Smith (*Chairperson*), Ian Shanahan (*Transport for NSW*), Peter Ellem (*on behalf of Janelle Saffin, MP*) and Sgt Matthew Linton (*NSW Police*).

In Attendance

Mark Bailey and Gordon Fraser-Quick (*North Coast National A&I Society*) and Marni Bonner (*Lismore Car Boot Market*) for Item 4.1.

Staff members, Barry Goodwin (*Design Services Engineer*) and Maddison Spencer (*IS Admin*).

Apologies

TAC58/20 Apologies for non-attendance were received on behalf of Janelle Saffin, MP, and Councillor Bill Moorhouse.

Confirmation of Minutes

The Committee was advised that the Traffic Advisory Committee report of 19 August 2020 was received and adopted by Council at its ordinary meeting of 8 September 2020.

Disclosure of Interest

Nil.

Part 'A' – Committee Recommendations

Business

4.1 Traffic Management Plan - Lismore Car Boot Market, Lismore Showground

request received from North Coast National A & I Society Inc, for approval of Traffic Management Plan (TMP) for Lismore Car Boot Markets to be held monthly at Lismore Showgrounds.

A temporary Development Application has been approved for three months for the event to be held at the Lismore Showgrounds. This would cover the remaining planned Lismore Car Boot Markets scheduled for the third Sunday in September (20 September) and the first and third Sunday in October (4 and 18 October).

At this stage a review of COVID-19 rules regarding crowds at events will be assessed. However, the intention of this TMP is to be implemented at regular major events held at the Lismore Showgrounds.

A further request has been received from the Secretary of the group for consideration to these additional items:

1. Extension of the 50km zone further north along Dunoon Road. Transport for NSW is the delegated authority to manage speed zone reviews. A speed zone review was undertaken for this section of Dunoon Road in 2019 with the below recommendation provided:

“TAC 11/19 RECOMMENDED that:

1. *Council support the NSW Roads and Maritime Services in **not** supporting the speed zone reduction on Dunoon Road in the vicinity of the proposed intersection for the link road to the North Lismore Plateau development from 80kph to 60kph.”*
2. Designation of parts of Dunoon Road and Alexandra Parade around the Showgrounds perimeter be converted to No Stopping zones.

TAC59/20 **RECOMMENDED** that:

1. An extension to the 50kph zone is not warranted and speed related issues to be addressed in the Traffic Management Plan (TMP).
2. The TMP be amended to include 40kph Roadworks Ahead speed zone between Alexandra Parade north to 44 Dunoon Road during major events.
3. Council endorse the approved TMP for event organisers to implement at major events held at the Lismore Showgrounds.

Voting for: Councillor Isaac Smith, Ian Shanahan, Peter Ellem, Sgt Matthew Linton.
Voting against: Nil.

4.2 Request for Convex Mirror - Tulk Road, Wyrallah

Request received from a visitor to a property along Tulk Road regarding the installation of a convex mirror and roadside clearing to assist drivers exiting Tulk Road with greater sight distance to the south, along Wyrallah Road.

Calculating Sight Distance to the South

The location is on a straight alignment on steep grade to the south of approximately 7.5% and available sight distance to the crest is approximately 105m. According to Austroads, *Guide Design Part 3 - Geometric Design Table 5.54 Stopping Sight Distance*, the desirable minimum stopping sight distance on an 80kph road on this grade is approximately 110m.

Calculating Sight Distance to the North

The desirable minimum stopping sight distance on an 80kph road on this grade is approximately 124m, with the available sight distance being approximately 100m with roadside clearing.

Note: Council has previously not supported similar requests unless in extreme circumstances as the mirror does not provide an accurate reflection of traffic and distances can be misleading. The installation of convex mirrors within the road reserve can become a hazard to through traffic.

TAC60/20 **RECOMMENDED** that:

1. The writer be advised Council does not support the request for the installation of a convex mirror.
2. Council's Civic Services team install a cross roads warning sign 'W2-1 (B)' on Wyrallah Road approximately 120m from Tulk Road for both approaches.
3. Once roadside clearing (CRM20/27804) has been completed, Council's Design Services team re-check sight distances at the intersection of Tulk Road and Wyrallah Road to meet relevant warrants with results tabled at a future meeting.

Voting for: Councillor Isaac Smith, Ian Shanahan, Peter Ellem, Sgt Matthew Linton.

Voting against: Nil.

Items for Discussion

5.1 Traffic Safety Issues - Intersection Duncan Road & Hunters Hill Road, Numulgi

Item 4.1 raised at 19 August 2020 Traffic Advisory Committee with request for Council's Design Services team to prepare a plan for further discussion.

"Item 4.1 (19 August 2020) Traffic Safety Issues - Intersection Duncan Road & Hunters Hill Road, Numulgi.

Hunters Hill Road and Duncan Road are classified as local collector roads under Council's road hierarchy. They are both two way sealed roads with approximately 6.5m width.

There has been one recorded accident between 2014-2019 with a non-casualty tow-away incident occurring at approximately 4am on a dry surface with a vehicle in a run-off road on a left hand curve and impacting with an object. The vehicle was travelling along Duncan Road (northbound).

TAC49/20 AGREED that Council's Design Services team prepare a plan for line marking and delineation of the intersection of Duncan Road and Hunters Hill Road, Numulgi, and table at future meeting."

TAC61/20 **RECOMMENDED** that:

1. Council in principle support changes to the intersection of Duncan Road & Hunters Hill Road, Numulgi, as prepared by Council's Design Services team and TfNSW.
2. Council's Design Services team finalise plan for installation and implementation by Civic Services staff.

Voting for: Councillor Isaac Smith, Ian Shanahan, Peter Ellem, Sgt Matthew Linton.

Voting against: Nil.

5.2 Traffic Safety Issues - Intersection Warrick Place & Deloraine Road,

Lismore Heights

Item 4.2 raised at 19 August 2020 Local Traffic Advisory Committee with request for Council's Design Services team to prepare a plan for further discussion.

"Item 4.2 (19 August 2020) Traffic Safety Issues - Intersection Warrick Place & Deloraine Road, Lismore Heights

Request received from Lismore Heights resident regarding traffic safety issues at the intersection of Warrick Place and Deloraine Road.

Warrick Place is a cul-de-sac providing access for 14 residences. It is classed as a local access road under Council's road hierarchy. It is a two way undivided access road and approximately 9m wide with onstreet parking.

Deloraine Road is also a local access road. Approaching the intersection from the south and continuing to the west, it connects with other streets on the northern ridges of Lismore. It is also a nominal 9m wide with some onstreet parking restrictions due to the existence of a traffic calming device, which restricts onstreet parking adjacent to the double BB line marking.

Eastbound traffic on Deloraine Road are currently required to stop and give way to Warrick Place and Deloraine Road traffic.

TAC50/20 AGREED that Council's Design Services team prepare a plan for line marking and delineation of the intersection of Warrick Place and Deloraine Road, Lismore Heights, and table at future meeting."

TAC62/20 **RECOMMENDED** that:

1. Council in principle support changes to the intersection of Warrick Place & Deloraine Road, Lismore Heights, as designed by Council's Design Services team.
2. Council's Design Services team finalise plan for installation and implementation by Civic Services staff.

Voting for: Councillor Isaac Smith, Ian Shanahan, Peter Ellem, Sgt Matthew Linton.

Voting against: Nil.

5.4 Request for Give Way Sign - Just Street, Goonellabah

Item 4.4 raised at 19 August 2020 Traffic Advisory Committee with request for Council's Design Services Team to provide a plan for discussion.

"Item 4.4 (19 August 2020) Request for Give Way Sign - Just Street, Goonellabah

Request received from Goonellabah resident for the installation of a Give Way sign at the intersection of Just Street and Brettmark Court.

Brettmark Court is a no through road and provides access to six residences, while Just Street will provide access to approximately 60 residences and will provide connectivity between Oliver Avenue to the north and Dudley Drive to the south at the completion of the subdivision stages.

The writer has requested that a Give Way sign and relevant line marking be installed on Brettmark Court to avoid confusion as to right of way with the varying road widths at the intersection.

TAC 52/20 AGREED that Council's Design Services team prepare a plan for line marking and delineation of the intersection of Just Street and Brettmark Court, Goonellabah, and table at future meeting."

TAC63/20 **RECOMMENDED** that:

1. Council in principle support changes to the intersection of Just Street & Brettmark Court, Goonellabah, as designed by Council's Design Services team.
2. Council's Design Services team finalise plan for installation and implementation by Civic Services staff.

Voting for: Councillor Isaac Smith, Ian Shanahan, Peter Ellem, Sgt Matthew Linton.

Voting against: Nil.

Part 'B' – Determined by Committee Business

TAC64/20 **4.3 Traffic Safety Issues - Intersection of Dalziell Street and McKenzie Street, Lismore**

Request for Committee to investigate traffic safety issues at the intersection of Dalziell Street and McKenzie Street.

A previous request for this intersection was received in 2016 for the installation of a Give Way or Stop sign to be installed.

“Traffic Advisory Committee Minute TAC21/16

A request from Matt Ryder for consideration of a Stop sign or Give Way sign to be erected at the intersection of Dalziell and McKenzie Streets, Lismore.

It was reported that on occasions sight distance is restricted due to larger vehicles being parked in the onstreet parking area on the northern side of McKenzie Street. Dalziell Street is a one way street heading south and joins McKenzie Street at a T-intersection.

A sight inspection did not indicate sight distance issues when a standard size vehicle was parked in the area. There is no history of accidents at the intersection.

TAC 21/16 It was agreed: *That the request was not warranted and the writer be advised of the decision.”*

AGREED that Council’s Design Services team:

1. Investigate and prepare a plan for line-marking and delineation of the intersection of Dalziell Street & McKenzie Street, Lismore and table at a future meeting.
2. Prepare a line-marking plan for dedicated 45° angle carparking along McKenzie Street (between Hunter Street and Dalziell Street) and table at a future meeting.
3. Investigate reconfiguration of the line-marking and concrete islands at the intersection of Hunter Street and McKenzie Street, and table at a future meeting.

Voting for: Councillor Isaac Smith, Ian Shanahan, Peter Ellem, Sgt Matthew Linton.

Voting against: Nil.

Items for Discussion

5.3 Request for No Stopping Zones - Eltham Village

Item 4.3 raised at 19 August 2020 Traffic Advisory Committee with request for Council’s Design Services team to prepare a plan for further discussion.

“Item 4.3 (19 August 2020) Request for No Stopping zones - Eltham Village

Request received from Eltham resident regarding installation of No Stopping zones at the intersection of Eltham Road and Mayfield Street.

Eltham Road is an arterial road under Council’s road hierarchy. Traffic data (2020) indicates approximately 900 vehicles travel through the village each day. The village is advertised as a tourist destination and is a stop-off for weekly regional bus services. It also includes several businesses which attract tourists, comprising the Eltham Hotel, Village Gallery and tennis courts.

The Eltham Village area is well attended with currently no parking direction as specified, creating parking and safety issues for through traffic. Standard parking zones revert to parallel parking where not specified.

A recent audit following a drive through from a TfNSW representative indicated some signage and line marking changes are required to be undertaken to meet current standards.

TAC51/20 AGREED *that Council staff investigate parking options within the Eltham village and undertake community consultation and report back to a future meeting for discussion.”*

TAC65/20 **AGREED** that Council Officers undertake community consultation on the proposal and general parking issues along Eltham Road and report back to the Traffic Committee on the results, together with a final plan for installation.

Voting for: Councillor Isaac Smith, Ian Shanahan, Peter Ellem, Sgt Matthew Linton.

Voting against: Nil.

5.5 DA18/181-02 (Modified) Clunes General Store – Traffic and Parking Changes

Item 4.4 raised at 20 November 2019 Traffic Advisory Committee with request for the applicants to provide an amended plan for further discussion.

“4.4 DA18/181-02 (Modified) Clunes General Store – Traffic and Parking Changes

Request received to review proposed modified parking changes relating to proposed Development Application DA18/181-02 Clunes General Store and 33, 33A and 35 Main Street, Clunes.

TAC 76/19 AGREED that:

1. The applicants provide an amended plan for consideration in accordance with relevant design vehicle and appropriate turning maneuvers for the site, in addition to suitable pedestrian areas to meet Australian Standards.
2. Further consultation be undertaken between Council officers and the clients regarding an appropriate treatment in line with a future parking and traffic management plan for Main Street, Clunes, currently in progress and planned for funding nominations as agreed by the Traffic Advisory Committee at its meeting on 20 February 2019 (TAC46/19).
3. An amended plan be tabled for consideration at a future Traffic Advisory Committee meeting."

Further consultation between Council Planning and Development staff, Design Services Engineer and the shop owners was held on 15 September 2020. The shop owners were provided with additional information relating to the matter including;

- a. A letter received from Transport for NSW (TfNSW), to Council to assist with the determination of the development application including:

"TfNSW raises concerns about the lack of provision for pedestrian movement within and across the frontage of the premises at 33 Main Street Clunes.....

TfNSW cannot support the relocation of the service vehicle area to the front of the shop as there is strong potential between pedestrian and service vehicle movements. The Service vehicle area should be retained in front of 35 Main Street Clunes as previously approved."

- b. Road Safety Audit undertaken by Ardill Payne and Partners.

This raised several Road Safety Audit findings in Main Street Clunes. Audit findings are a list of identified safety deficiencies which could lead to accidents occurring. *(Note there have been 2 accidents in the area near 33 Main Street, one resulting in serious injury to a pedestrian).*

- c. Nomination for funding under 2021/22 Safer Roads Program, which included remediation measures to the Road Safety Audit Findings and proposed treatments in response to previous accidents at the site, additional onstreet parking and a protected centre refuge to provide a safe crossing location, including pedestrian directional fencing.

The meeting outcomes were:

1. Council staff did not support the previous proposal for provision of a Loading zone directly in front of the Clunes Store as a safety risk to pedestrians' interaction with vehicles.
2. The shop owners develop a plan for service delivery vehicles to be awarded sufficient turning area within the boundaries of 33 and 35 Main Street for forward ingress and egress from the properties, to negate the requirements for an onstreet Loading zone, and to concur with the nomination for funding as lodged.
3. The nomination plan for Safer Road Funding was supported in theory by all attendees at the meeting.

TAC66/20 **AGREED** that the owners of 33 and 35 Main Street, Clunes, provide a plan to Council's Planning and Development teams and the Traffic Advisory Committee be invited to provide feedback on the proposal.

Voting for: Councillor Isaac Smith, Ian Shanahan, Peter Ellem, Sgt Matthew Linton.

Voting against: Nil.

Closure

This concluded the business and the meeting terminated at 11.37am

Committee Recommendation

Minutes of Lismore Floodplain Management Committee -15 September 2020

Recommendation

That the attached minutes of the Lismore Floodplain Management Committee meeting held on 15 September 2020 be received and the recommendations contained therein be adopted.

Attachment/s

1. [↓](#) FMC minutes 15 September 2020

MINUTES OF THE LISMORE FLOODPLAIN MANAGEMENT COMMITTEE HELD IN LISMORE ROOM ON TUESDAY, 15 SEPTEMBER 2020 AT 2PM TO 4PM

Please note: These minutes are subject to confirmation at the next Council meeting. Decisions recorded in the draft minutes are subject to the Council's Code of Meeting Practice in relation to rescinding decisions.

Present

Councillor Elly Bird, Councillor Vanessa Ekins, Andrew Logan, Caroline Sullivan, Chad Ellis, Martin Rose, Ed Bennett, Graham Askey and Lindy Margan.

In Attendance

Shelley Oldham, LCC General Manager
Paula Newman, LCC Strategic Planning Coordinator
Sandra Campbell (Administration)
Mark Page (Consultant Engeny – left meeting 1.50pm)
Observers: Members of Lismore Citizens Flood Review Group

Apologies

Cr Adam Guise, Cr Neil Marks, Ellen Kronen

Non Attendance

Jeremy Stewart

Confirmation of Minutes

That the Minutes from the meeting dated 11 August 2020 be confirmed
MOVED by Cr Bird and **SECONDED** by Andrew Logan

Disclosure of Interest

Nil

4.1 Results of Flood Mitigation Options Investigation

That the Floodplain Management Committee:

1. Note and discuss the results of the modelling of structural flood modification Option 9 – Combination of Options 1, 2, 6, 7 and 8;
2. Endorse the inclusion of the following structural flood modification options in the Draft Flood Risk Management Study, for further investigation and evaluation as part of the proposed Lismore Floodplain Management Plan update:

- a) Option 1 – CBD Levee Raise (5% AEP)
 - b) Option 2 – South Lismore Levee Raise (5% AEP)
 - c) Option 6 – Excavation of Wilsons River Bends
 - d) Option 7 – Removal of Kyogle Road Railway Embankment and Viaduct
 - e) Option 8 – Increase Conveyance at Key Hydraulic Controls in Bruxner Highway \ Caniaba Road vicinity
 - f) Option 9 – Combination of Options 1, 2, 6, 7 and 8.
3. Support the renumbering, to sequential, of the selected structural flood modification measures to be included in the Draft Flood Risk Management Study.

MOVED by Ed Bennett and **SECONDED** by Caroline Sullivan

4.2 Finalising the draft Flood Risk Management Study

That the Floodplain Management Committee note the verbal report on finalising the draft Flood Risk Management Study by Andrew Logan, Rous County Council.

MOVED by Lindy Margan and **SECONDED** by Caroline Sullivan

Next Meeting

2-4pm, Tuesday 29 September 2020 – Venue to be advised.

Closure

This concluded the business and the meeting terminated at 3.10pm.

2019/20 ACTION SHEET – Lismore 2019/20 ACTION SHEET – Lismore Floodplain Management Committee

Item	Action	Responsible Officer	Status
29/10/19:4.2	Technical Committee to look at changes of levels	Technical Committee	
29/10/19:4.2	1. Timeframe – modelled and presented to Technical Committee by end November 2.	Engeny	Complete
29/10/19:4.2	3. Circulate the final plans to this committee for comment before the modelling	Engeny	Complete
12/9/19:4.3	Engeny presentation to be sent to the Committee with the minutes of this meeting.	Sandra Campbell	Complete
12/9/19:4.5	All notes and reports of the LFMCTSC to be sent to LFMC members for their information and record.	Sandra Campbell	Complete

Item	Action	Responsible Officer	Status
12/9/19:4.6	The next meeting of the LFMC to be held in the Council Chambers on Tuesday 29 October 2019, from 2pm to 4pm.	Sandra Campbell	Complete

Financial Assistance – Section 356



Financial Assistance – Section 356

a) Mayor’s Discretionary Fund (GL390.485.15)

Budget: \$3,000

Spent to date:\$800

To sponsor a student prize at St John’s College Annual Prize Giving and Awards Ceremony

\$100.00

Recommendation

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

Attachment/s

There are no attachments for this report.

Confidential Business



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:

Item	18.1 Assessment Report - Unsolicited Proposal
Grounds for Closure	Section 10A(2) (d i):
Public Interest	Discussion of this matter in an open meeting would on balance be contrary to the public interest because it relates to:commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.
Item	18.2 Tender T2020-8 Lismore Regional Airport Fence
Grounds for Closure	Section 10A(2) (d i):
Public Interest	Discussion of this matter in an open meeting would on balance be contrary to the public interest because it relates to:commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.
Item	18.3 Sale of Land for Unpaid Rates - Payment Proposal Review
Grounds for Closure	Section 10A(2) (b):
Public Interest	Discussion of this matter in an open meeting would on balance be contrary to the public interest because it relates to:the personal hardship of any resident or ratepayer.

MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE CITY OF LISMORE HELD IN COUNCIL CHAMBERS ON TUESDAY, 8 SEPTEMBER 2020 AT 6.00PM

Please note: These minutes are subject to confirmation at the next Council meeting. Decisions recorded in the draft minutes are subject to the Council's Code of Meeting Practice in relation to rescinding decisions.

Present

Mayor, Councillor Smith; Councillors Bird, Casson, Cook, Ekins, Guise, Lloyd, Marks, Moorhouse, together with the Director Corporate Services, Director Infrastructure Services, Acting Director Partnerships, Planning & Engagement, Manager Finance, Manager Built Environment, Senior Development Assessment Planner, IT Projects & Strategy Co-ordinator, Technology Support Officer, Media & Community Relations Coordinator, Customer Service Coordinator and Executive Assistant – Mayor and Councillors.

Apologies and Leave of Absence

- 157/20 **RESOLVED** that a leave of absence be accepted for
- Cr Moorhouse from 9 to 24 September 2020
 - Cr Marks from 28 September to 11 October 2020

(Councillors Moorhouse/Cook)

Voting for: Councillors Bird, Casson, Cook, Ekins, Guise, Lloyd, Marks, Moorhouse and Smith

Voting against: Nil

Confirmation of Minutes of Previous Meeting

- 158/20 **RESOLVED** that the minutes of the following meetings be confirmed:
- Ordinary Meeting held on 11 August 2020
 - Confidential Meeting held on 11 August 2020

(Councillors Marks/Cook)

Voting for: Councillors Bird, Casson, Cook, Ekins, Lloyd, Marks, Moorhouse and Smith

Voting against: Councillor Guise

Disclosure of Interest

Nil

Councillor Vanessa Ekins left the meeting, the time being 6:24PM

Councillor Vanessa Ekins returned to the meeting, the time being 6:26PM

Public Access Session on Agenda Items

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

Reports of the General Manager

14.1 DA19/41 - To undertake the redevelopment of 60A & 62 Cullen Street for a mixed use development

AGAINST	Diana Roberts, Nimbin Chamber of Commerce & Nimbin Advisory Group
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14.7 Model Code of Conduct and Procedures

AGAINST	Janine Wilson
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Mayoral Minute(s) and Condolence Motions

8.1 Condolence Motion - Rev Dorothy Harris-Gordon

The Reverend Dorothy Harris-Gordon, "Auntie Dorrie", a Widjabul Wyabul elder of the Bundjalung nation, was born in 1941 and grew up at Cubawee, just outside Lismore. The second of five daughters, Dorrie told her grandmother she was going to be a minister or pastor when she grew up.

By the age of 21 she had met and married her husband Charles Harris and they moved to Ingham in north Queensland where Charles was beginning his ministry.

Uncle Charles and Auntie Dorrie's dream was for a national Aboriginal and Islander church. In 1985 that dream came to fruition with the establishment of the Uniting Aboriginal and Islander Christian Congress, supported as a part of the Uniting Church of Australia.

Uncle Charles and Auntie Dorrie's ministry was as much about social justice as it was about Jesus.

Uncle Charles, with Auntie Dorrie by his side, organised the Long March for Freedom, Justice and Hope on the 26 January 1988, which drew 40,000 to the streets of Sydney.

In 1993 when Uncle Charles died, Auntie Dorrie took on the mission to become a minister of God. In 1999 she became the first aboriginal woman ordained in the Uniting Church in NSW/ACT and set up a ministry in Grafton. For more than 10 years she was a chaplain at

Grafton, Glen Innes and Long Bay gaols.

Auntie Dorrie was known to be a mentor for the next generation of indigenous leaders and a gentle listener to sometimes hardened criminals.

In the early 2000s Auntie Dorrie help set up churches for indigenous people in Lismore and Coraki.

Auntie Dorrie served 50 years in ministry in the Methodist and Uniting Church and was a well-respected and much-loved member of the community.

In 2016 at the Australia Day awards Auntie Dorrie was acknowledged as Lismore's Aboriginal Citizen of the Year.

Auntie Dorrie sadly passed away on Friday 7 August 2020. She is survived by her sons Charles and Phillip and daughters Sharon and Charmaine, grandchildren and great grandchildren. Auntie Dorrie will be sorely missed by the community of Lismore.

159/20

RESOLVED that Council:

1. Receive and note the Condolence motion.
2. Ask the Mayor to send a letter of condolence to the family.

(Councillors Smith/Lloyd) (BP20/751)

Voting for: Councillors Bird, Casson, Cook, Ekins, Guise, Lloyd, Marks, Moorhouse and Smith

Voting against: Nil

Notice of Rescission Motions

Councillor Elly Bird left the meeting, the time being 6:56PM

Councillor Elly Bird returned to the meeting, the time being 7:01PM

Notice of Motions

10.1 Financial Hardship Assistance

That Council:

1. Allocate councillor fees for both Councillors Battista and Bennett be put in an account designed to help ratepayers who find themselves unable to pay their rates during the COVID-19 pandemic
2. Application are to be assessed as per Council's Hardship Policy
3. Resolves to place this money into a reserve

(Councillors Casson/Lloyd)

160/20

An AMENDMENT was moved and **DEFEATED** that Council:

1. Allocate councillor fees for both Councillors Battista and Bennett be put in an account designed to help ratepayers who find themselves unable to pay their rates due to hardship
2. Application are to be assessed as per Council's Hardship Policy
3. Resolves to place this money into a reserve
4. The money remain in the account until it has been exhausted

(Councillors Casson/Guise) (BP20/745)

Voting for: Councillors Casson, Guise and Lloyd

Voting against: Councillors Bird, Cook, Ekins, Marks, Moorhouse and Smith

Questions for Next Meeting

Altering Order of Business (Consideration of altering the order of business to debate matters raised during Public Access Session)

161/20 **RESOLVED** that the order of business be altered to debate the following matter raised during Public Access

- **14.7 Model Code of Conduct and Procedures**

(Councillors Marks/Bird)

Voting for: Councillors Bird, Casson, Cook, Ekins, Guise, Lloyd, Marks, Moorhouse and Smith

Voting against: Nil

Reports of the General Manager

14.1 DA19/41 - To undertake the redevelopment of 60A & 62 Cullen Street for a mixed use development.

162/20 MOTION moved that Council as the consent authority, grant a deferred commencement development consent to Development Application No. 2019/41 for a mixed-use development comprising: retail shops, take away food and drink premises, a café (12 seats), a Medical Centre, communal open space garden area and associated civil works, infrastructure services, earthworks, vegetation removal, landscaping, the demolition of on-site structures and staged strata subdivision at 60A and 62 Cullen Street, Nimbin subject to the Conditions set out in **Attachment 4** as amended to change the monetary figure in deferred commencement condition A1 to \$20,000, and that consultation with the Nimbin Chamber of Commerce & Nimbin Advisory Group be undertaken prior to works.

(Councillors Bird/Ekins) (BP20/44)

FORESHADOWED MOTION moved that Council as the consent authority, grant a deferred commencement development consent to Development Application No. 2019/41 for a mixed-use development comprising: retail shops, take away food and drink premises, a café (12 seats), a Medical Centre, communal open space garden area and associated civil works, infrastructure services, earthworks, vegetation removal, landscaping, the demolition of on-site structures and staged strata subdivision at 60A and 62 Cullen Street, Nimbin subject to the Conditions set out in **Attachment 4**.

(Councillor Marks)

RESOLVED that Council as the consent authority, grant a deferred commencement development consent to Development Application No. 2019/41 for a mixed-use development comprising: retail shops, take away food and drink premises, a café (12 seats), a Medical Centre, communal open space garden area and associated civil works, infrastructure services, earthworks, vegetation removal, landscaping, the demolition of on-site structures and staged strata subdivision at 60A and 62 Cullen Street, Nimbin subject to the Conditions set out in **Attachment 4** as amended to change the monetary figure in deferred commencement condition A1 to \$20,000, and that consultation with the Nimbin Chamber of Commerce & Nimbin Advisory Group be undertaken prior to works.

(Councillors Bird/Ekins) (BP20/44)

Voting for: Councillors Bird, Cook, Ekins, Guise, Lloyd and Smith

Voting against: Councillors Casson, Marks and Moorhouse

Councillor Vanessa Ekins left the meeting, the time being 7:34PM

Councillor Bill Moorhouse left the meeting, the time being 7:34PM

Councillor Vanessa Ekins returned to the meeting, the time being 7:35PM

Councillor Bill Moorhouse returned to the meeting, the time being 7:35PM

Councillor Vanessa Ekins left the meeting, the time being 7:38PM

Councillor Vanessa Ekins returned to the meeting, the time being 7:40PM

Councillor Vanessa Ekins left the meeting, the time being 7:42PM

Councillor Vanessa Ekins returned to the meeting, the time being 7:43PM

14.7 Model Code of Conduct and Procedures

163/20 **RESOLVED** that Council:

1. Revoke the current Lismore City Council Code of Conduct 2019 and associated procedures.
2. Adopts the new Model Code of Conduct (2020) for Lismore City Council included as Attachment 1 to this report.
3. Adopt the Procedures for the Administration of the Code of Conduct (2020) included as Attachment 2 to this report.

(Councillors Cook/Bird) (BP20/728)

Voting for: Councillors Bird, Cook, Ekins, Marks, Moorhouse and Smith

Voting against: Councillors Casson, Guise and Lloyd

14.2 Nimbin Road, Goolmangar and Stony Chute Road, Nimbin - Partial Land Acquisitions for Safer Roads Grant Funded Projects

164/20

RESOLVED that:

1. Council endorse the following land acquisitions for road widening purposes in accordance with the concept plans attached to the report:
 - a) Part of Lot 1 DP 1248954 known as 52 Stony Chute Road, Nimbin
 - b) Part of Lot 2 DP 594727 known as 954 Nimbin Road, Goolmangar
 - c) Part of Lot 1 DP 594727 known as 956 Nimbin Road, Goolmangar.
2. The landowners' costs associated with the acquisitions be met by Council including but not limited to survey, fencing, Council fees, the landowners' reasonable legal fees, valuation fees, and plan registration fees.
3. The General Manager be delegated authority to negotiate the compensation payable to the landowners based on market evidence or valuations and sign all documents necessary to acquire the land necessary for road purposes.
4. Compensation for 1c) above may be negotiated to include a land swap under Section 44 of the *Roads Act*, 1993.

(Councillors Marks/Moorhouse) (BP20/696)

Voting for: Councillors Bird, Cook, Ekins, Marks, Moorhouse and Smith

Voting against: Councillors Casson, Guise and Lloyd

Councillor Eddie Lloyd left the meeting, the time being 7:49PM

Councillor Eddie Lloyd returned to the meeting, the time being 7:51PM

14.3 Investments - August 2020

165/20

RESOLVED that the report be received and noted.

(Councillors Cook/Marks) (BP20/541)

Voting for: Councillors Bird, Cook, Ekins, Marks, Moorhouse and Smith

Voting against: Councillors Casson, Guise and Lloyd

14.4 Council Financial Report - September 2020

166/20

RESOLVED that Councillors note the contents of the report and the potential impact on Council's 2020/21 Operational Plan.

(Councillors Marks/Cook) (BP20/733)

Councillor Adam Guise left the meeting, the time being 8:12PM

Councillor Adam Guise returned to the meeting, the time being 8:15PM

14.5 LG NSW Conference - Notice of Motions

MOTION moved that Council submit the following Notices of Motion to the 2020 LGNSW Conference:

- Australian Workwear
- Workers compensation
- Community-led climate resilience
- Incentives for relocating government services, small business and industries and skilled workers to regional cities
- Funding for roads maintenance
- 100% Waste Levy Reinvestment into Waste Initiatives in a transparent and equitable manner
- Maintenance payments included funding for construction of projects
- Local Activation Precincts
- Green energy
- Conservation and land management stimulus package
- Regional arts recovery from COVID-19
- Landscape hydration
- Road reserves for animal corridors
- Insurance for residents undertaking roadside maintenance

(Councillors Marks/Bird)

167/20 An AMENDMENT was moved that Council submit the following Notices of Motion to the 2020 LGNSW Conference and the content of each motion be confirmed at a councillor briefing prior to submission:

- Australian Workwear
- Workers compensation
- Community-led climate resilience
- Incentives for relocating government services, small business and industries and skilled workers to regional cities
- Funding for roads maintenance
- 100% Waste Levy Reinvestment into Waste Initiatives in a transparent and

equitable manner

- Maintenance payments included funding for construction of projects
- Local Activation Precincts
- Green energy
- Conservation and land management stimulus package
- Regional arts recovery from COVID-19
- Landscape hydration
- Road reserves for animal corridors
- Insurance for residents undertaking roadside maintenance

(Councillors Bird/Marks) (BP20/608)

Voting for: Councillors Bird, Cook, Ekins, Guise, Marks, Moorhouse and Smith

Voting against: Councillors Casson and Lloyd

168/20

On submission to the meeting the amendment became the motion and was **RESOLVED** that Council submit the following Notices of Motion to the 2020 LGNSW Conference and the content of each motion be confirmed at a councillor briefing prior to submission:

- Australian Workwear
- Workers compensation
- Community-led climate resilience
- Incentives for relocating government services, small business and industries and skilled workers to regional cities
- Funding for roads maintenance
- 100% Waste Levy Reinvestment into Waste Initiatives in a transparent and equitable manner
- Maintenance payments included funding for construction of projects
- Local Activation Precincts
- Green energy
- Conservation and land management stimulus package
- Regional arts recovery from COVID-19
- Landscape hydration
- Road reserves for animal corridors
- Insurance for residents undertaking roadside maintenance

(Councillors Bird/Marks) (BP20/608)

Voting for: Councillors Bird, Cook, Ekins, Marks, Moorhouse and Smith

Voting against: Councillors Casson, Guise and Lloyd

Councillor Adam Guise left the meeting, the time being 8:18PM

Councillor Adam Guise returned to the meeting, the time being 8:21PM

14.6 Election of Deputy Mayor

Nominations for Deputy Mayor were called for.

Councillor Marks nominated and Councillor Moorhouse seconded.
Councillor Casson nominated and Councillor Lloyd seconded.

Each candidate was given five minutes to address councillors.

Open vote by way of show of hands was held for each candidate.

169/20

RESOLVED that:

1. The Council appoint Councillor Marks as Deputy Mayor.
2. The period of appointment be until the Local Government election in September 2021.

(Councillors Moorhouse/Marks) (BP20/678)

Voting for: Councillors Bird, Cook, Ekins, Marks, Moorhouse and Smith

Voting against: Councillors Casson, Guise and Lloyd

14.8 Council's Ordinary Meeting Schedule for 2021

170/20

RESOLVED that:

1. The first Ordinary Meeting of Council for 2021 be held on Tuesday, 9 February 2021 at 6pm and then the second Tuesday of the month with the final ordinary meeting of Council being Tuesday, 10 August 2021.
2. Council's first meeting after the September 2021 elections be held on the Tuesday, 12 October 2021 at 6pm, with two subsequent meetings being held on the second Tuesday of November and December 2021.
3. The General Manager's performance assessments include a key performance indicator (KPI) to have business papers for Ordinary Meetings of Council distributed to councillors one week prior to the meeting date.

(Councillors Lloyd/Casson) (BP20/437)

Voting for: Councillors Bird, Casson, Cook, Ekins, Guise, Lloyd, Marks, Moorhouse and Smith

Voting against: Nil

Committee Recommendations

15.1 The minutes of the Lismore Floodplain Management Committee from 11 August 2020 be received and adopted and the recommendations contained therein be adopted.

171/20

RESOLVED that the minutes of the Lismore Floodplain Risk Management Committee from 11 August 2020 be received and adopted and the recommendations contained therein be adopted.

(Councillors Ekins/Bird) (BP20/727)

Voting for: Councillors Bird, Cook, Ekins, Marks and Smith

Voting against: Councillors Casson, Guise, Lloyd and Moorhouse

15.2 Traffic Advisory Committee Minutes - Meeting of 19 August 2020

172/20 **RESOLVED** that the minutes be received and adopted and the Traffic Advisory Committee's determinations contained therein be adopted.

(Councillors Moorhouse/Marks) (BP20/729)

Voting for: Councillors Bird, Casson, Cook, Ekins, Lloyd, Marks, Moorhouse and Smith

Voting against: Councillor Guise

Documents for Signing and Sealing

Financial Assistance – Section 356

17.1 Financial Assistance – Section 356 Report

173/20 **RESOLVED** that in accordance with Section 356(1) of the *Local Government Act 1993*, the assistance to persons as listed above is hereby approved.

(Councillors Smith/Marks) (BP20/746)

Voting for: Councillors Bird, Casson, Cook, Ekins, Guise, Lloyd, Marks, Moorhouse and Smith

Voting against: Nil

Confidential Matters – Closed Council Meeting

174/20 **RESOLVED** that Council now exclude the press and public and meet in Closed Council to consider the following matters;

Item	18.1 Bridge Replacement Program
Grounds for Closure	Section 10A(2) (d i):
Public Interest	Discussion of this matter in an open meeting would on balance be contrary to the public interest because it relates to: commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

(Councillors Marks/Moorhouse)

Voting for: Councillors Bird, Cook, Ekins, Marks, Moorhouse and Smith

Voting against: Councillors Casson, Guise and Lloyd

Councillor Eddie Lloyd left the meeting, the time being 8:52PM

Resumption of Open Council

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

18.1 Bridge Replacement Program

That:

1. In accordance with Section 55(3)(i) of the *Local Government Act, 1993* Council enter into direct negotiations with BGC Australia Pty Ltd for the purpose of purchasing the Unibridge steel components as outlined in the report.
2. Council endorse the extenuating circumstances and reasons that apply to the purchase as listed in Points 1 to 8 and a) to g) within this report and that a satisfactory result would not be achieved by inviting tenders in the circumstances.
3. Council delegate authority to the General Manager to undertake the negotiations and finalise a contract for purchase, upon being satisfied that minor defects are capable of being appropriately remedied.
4. Staff report the outcome of the negotiations to Councillors outlining the final contract details and make details of any concluded purchase public once the purchase is finalized to ensure transparency in the process Council has followed for this procurement.

Closure

This concluded the business and the meeting terminated at 8.53pm.

CONFIRMED this > > 2020 at which meeting the signature herein was subscribed.

MAYOR

MINUTES OF THE CONFIDENTIAL MEETING OF THE COUNCIL OF THE CITY OF LISMORE HELD ON ZOOM ON TUESDAY, 8 SEPTEMBER 2020 AT 6.00PM

Please note: These minutes are subject to confirmation at the next Council meeting. Decisions recorded in the draft minutes are subject to the Council's Code of Meeting Practice in relation to rescinding decisions.

Present

Mayor, Councillor Smith; Councillors Bird, Casson, Cook, Ekins, Guise Lloyd, Marks, Moorhouse, together with the Director Corporate Services, Director Infrastructure Services, Acting Director Partnerships, Planning & Engagement, Executive Assistant – Mayor and Councillors.

Confidential Matters – Closed Council Meeting

170/20 **RESOLVED** that Council now exclude the press and public and meet in Closed Council.

(Councillors Marks/Moorhouse)

Voting for: Councillors Bird, Cook, Ekins, Marks, Moorhouse and Smith

Voting against: Councillors Casson, Guise and Lloyd

18.1 Bridge Replacement Program

171/20 **RESOLVED** that:

1. In accordance with Section 55(3)(i) of the *Local Government Act, 1993* Council enter into direct negotiations with BGC Australia Pty Ltd for the purpose of purchasing the Unibridge steel components as outlined in the report.
2. Council endorse the extenuating circumstances and reasons that apply to the purchase as listed in Points 1 to 8 and a) to g) within this report and that a satisfactory result would not be achieved by inviting tenders in the circumstances.
3. Council delegate authority to the General Manager to undertake the negotiations and finalise a contract for purchase, upon being satisfied that minor defects are capable of being appropriately remedied.
4. Staff report the outcome of the negotiations to Councillors outlining the final contract details and make details of any concluded purchase public once the purchase is finalized to ensure transparency in the process Council has followed for this procurement.

(Councillors Marks/Moorhouse) (BP20/737)

Voting for: Councillors Bird, Cook, Ekins, Marks, Moorhouse and Smith

Voting against: Councillors Casson, Guise and Lloyd

Resumption of Open Council

172/20 **RESOLVED** that Council reopen the doors to the public and return to open session.

(Councillors Cook/Marks)

Voting for: Councillors Battista, Bennett, Bird, Casson, Cook, Ekins, Guise, Lloyd, Marks, Moorhouse and Smith

Voting against: Nil

Closure

This concluded the business and the meeting terminated at 8.52pm.

CONFIRMED this > > 2020 at which meeting the signature herein was subscribed.

MAYOR