



COFFS HARBOUR CITY COUNCIL
ORDINARY MEETING
COUNCIL CHAMBERS
COUNCIL ADMINISTRATION BUILDING
COFF AND CASTLE STREETS, COFFS HARBOUR
1 MAY 2008

Contents

ITEM	DESCRIPTION	PAGE
LAND USE HEALTH & DEVELOPMENT DEPARTMENT REPORT		
L5	HERITAGE STRATEGIC PLAN 2009 - 2011	1
CORPORATE BUSINESS DEPARTMENT REPORTS		
C23	COFFS HARBOUR & DISTRICT EX-SERVICEMEN AND WOMEN'S MEMORIAL CLUB LIMITED - LEASE OF PART OF CASTLE STREET MULTI-LEVEL CAR PARK	13
CONFIDENTIAL ITEMS		
The following item either in whole or in part may be considered in Closed Meeting for the reasons stated:		
A portion of this report is confidential for the reason of Section 10A (2):		
(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.		
and in accordance with Section 10A (1) the meeting may be closed to the public.		
L6	CONTRACT EXTENSION - COFFS COAST WASTE SERVICES CONTRACT NO. 04/05-183-TO	16
The following item either in whole or in part may be considered in Closed Meeting for the reasons stated:		
A portion of this report is confidential for the reason of Section 10A (2):		
(c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,		
and in accordance with Section 10A (1) the meeting may be closed to the public.		
L7	CORAMBA FUEL CONTAMINATION REMEDIATION	22



COFFS HARBOUR CITY COUNCIL

ORDINARY MEETING

1 MAY 2008

Mayor and Councillors

LAND USE HEALTH & DEVELOPMENT DEPARTMENT REPORT

L5 HERITAGE STRATEGIC PLAN 2009 - 2011

Purpose:

Council has had a Heritage Strategy in place since mid 2003. Initially, Coffs Harbour City Council's Heritage Advisor reviewed the best practice advice contained in the Heritage Office publication ***'Eight suggestions on how local councils can promote heritage conservation.'*** Drawing on the information outlined in the "eight suggestions", Council in 2003 resolved to:

1. **Establish a heritage executive committee** for an interim period of three years to assist the council to actively promote heritage conservation;
2. **Survey and legally protect** all the heritage items in its area;
3. **Put in place good measures to assess all development applications** involving heritage items;
4. **Encourage best practice heritage conservation** through providing free heritage advisory services, promotion and incentives, and
5. **Lead by example by taking good care of its own heritage items** - halls, school of arts, cemeteries, historic parks, street trees, etc.

A Heritage Strategy was then devised based upon these broad aims. A similar process led to a revised Heritage Strategy being renewed for the period 2006 – 2009, with the ***'Eight suggestions on how local councils can promote heritage conservation'*** being replaced by nine ***'recommendations for local council heritage management'***.

This report outlines the Heritage Strategy for the following three-year period.

Background:

Council appointed a Heritage Advisor in mid 2003. The NSW Heritage Office provided funding toward the cost of the duties applicable to a heritage advisory program, as well as the establishment of a local heritage fund to assist landowners of heritage listed sites in the general maintenance and care of their properties.

Cont'd

L5 Heritage Strategic Plan 2009 - 2011 ...(Cont'd)

A Heritage Strategic Plan was then prepared. The plan included the establishment of a Heritage Committee to oversee the implementation of the heritage advisory program and the allocation of heritage funding.

Description of Item:

- **Role of Heritage Advisor**

The primary goal of the Heritage Advisor and of a heritage advisory program is to assist Council and the community to have appropriate measures and policies in place so as to best conserve and best present the heritage of the area. Heritage items include buildings, sites, relics, heritage landscapes, precincts e.g. main streets, cemeteries, archaeological sites, industrial heritage sites and movable items.

- **Duties of Heritage Advisor**

- (a) In line with the primary goal of the Advisor, it is required that the Advisor reviews the effectiveness of the educational, management and promotional arrangements for heritage in the area, identifies areas for improvement and takes appropriate action.
 - (i) **Education** – the Advisor undertakes a group by group review of the heritage educational needs for local Council staff, Councillors, professionals and trades people, schools and the general community.
 - (ii) **Management** - the Advisor reviews the current heritage arrangements, including the establishment of a Heritage Committee to the Council, the survey and protection of items, the dissemination of adequate and appropriate information to owners about the listing, protection and general care of heritage items and the way in which change to heritage items and sites is managed by the Council.
 - (iii) **Promotion** - the Advisor reviews the pro-active steps which need to be taken to promote heritage conservation. Such measures may include:
 - the commissioning of main street studies;
 - the establishment of local heritage funds;
 - the preparation and distribution of appropriate information (brochures) to assist the local community to understand and conserve heritage items;
 - the establishment of heritage trails;
 - the interpretation of specific sites;
 - the active pursuit of cultural tourism in the area.
- (b) To be familiar with all previous heritage studies and in particular, the recommendations of heritage studies and encourage the implementation of these recommendations where appropriate;

Cont'd

L5 Heritage Strategic Plan 2009 - 2011 ...(Cont'd)

- (c) Provide advice to property owners with respect to any alterations and conservation work to be undertaken to heritage items. This work is generally to be restricted to providing sufficient advice for the owner to proceed in a way which will result in a positive outcome for the heritage item concerned. It is not intended that the Advisor replace the role of a normal architectural service in supplying working drawings, for example. In particular, where the job is large an independent architect should be engaged, although it is accepted that a somewhat greater level of advice and support may be provided where the item is owned by a non-profit community group or by Council;
- (d) Assist the Council in managing change by providing advice on all relevant development applications and construction certificates involving heritage items and issues;
- (e) Compile a list of suitably qualified and experienced local architects, engineers and other conservation tradesmen and suppliers for the purpose of providing advice to property owners whose land includes heritage items;
- (f) Monitor the condition and maintenance of heritage items in the area;
- (g) Where necessary supervise a Council commissioned conservation study;
- (h) Assist all owners of properties which include heritage items, where necessary, to apply for funding under the Heritage Assistance Program;
- (i) Provide advice concerning matters for action under the Heritage Act 1977, when requested by the NSW Heritage Office; and
- (j) Establish the collection of heritage resource material, including photographs, to assist heritage conservation and promotion in the area.

- **Role of the Heritage Executive Committee**

The Heritage Executive Committee has a charter to:

- endorse the Heritage Strategy;
- assist Council to actively promote heritage conservation;
- assist with any study or survey to legally protect heritage items;
- advise Council and the community on planning, management and promotion of the City's heritage resource;
- oversee the implementation of the heritage fund;
- encourage best practice heritage conservation;

The composition of the Heritage Executive Committee is:

- the Heritage Advisor;
- a Coffs Harbour Museum society representative;
- a Coffs Harbour Local Aboriginal Land Council representative;
- a Sawtell and District Progress Association representative;
- a Coffs Harbour Heritage Trust representative;
- 2 Community Representatives.

Cont'd

L5 Heritage Strategic Plan 2009 - 2011 ...(Cont'd)

- **Heritage Strategy**

The proposed Heritage Strategy 2009-2011 includes:

- the continuation of the Heritage Executive Committee;
- survey/protect items;
- produce heritage brochures;
- establish and administer local heritage fund;
- establish themed heritage trails;
- establish heritage plaques and signs;
- promote cultural heritage.

The Strategy summarises the way Coffs Harbour City Council will achieve implementation of its heritage program. The 2009-2011 Heritage Strategic Plan was presented to, and endorsed by the Heritage Executive Committee on 27 March 2008.

- **Heritage Fund**

The established heritage fund, with Council and the NSW Heritage Office matching dollar for dollar, is made up of \$5000 from Coffs Harbour City Council.

The fund is used for development/alterations/maintenance occurring to heritage items or within conservation areas.

Benefits of the fund are:

- encourages conservation and promotes positive community attitude to heritage consideration;
- encourages work on heritage items;
- provides a tool to target particular projects.

Sustainability Assessment:

- **Environment**

Coffs Harbour local government area (LGA) includes items of European/non Aboriginal heritage items from the mid 19th century. Many of these items provide first hand information about how Coffs Harbour developed, who played their part in development, how they lived their lives and how they built their living environment.

These items provide Coffs Harbour with its built heritage and are therefore worthy of passing on to future generations.

- **Social**

Conserving our heritage helps us to understand our past and to contribute to the lives of future generations. It gives us a sense of continuity and belonging to the place where we live; a sense of place.

Cont'd

L5 Heritage Strategic Plan 2009 - 2011 ...(Cont'd)

- **Economic**

Maintaining heritage items provides scope for the employment of people with specialist skills and training.

Heritage items can readily be promoted and become an integral component of Council's tourist and business attraction program.

Maintenance of heritage items is beneficial to the economic development of the City.

Conclusion:

This report demonstrates that the Heritage Advisory Program is progressing well. The proposed Heritage Strategic Plan 2009 - 2011, included as Attachment 1 outlines the framework in which the Heritage Advisory Program will continue to operate over the next three years.

The Heritage Strategic Plan Table, included as Attachment 2 summarises the proposed strategic actions within the Heritage Strategic Plan.

Recommendation:

That Council:

- 1. Endorse the Heritage Strategic Plan 2009 – 2011 for public exhibition purposes;**
- 2. Provided that no significant submissions are received endorse the adoption of the Heritage Strategic Plan 2009 – 2011.**

Attachments:

Attachment 1

HERITAGE STRATEGY FOR COFFS HARBOUR CITY COUNCIL, 2009-2011.

Continuing the use of the best practice advice contained in the Heritage Office publication ***Recommendations for local council heritage management***, Council is committed to the following actions with regard to each recommendation:

Recommendation 1	Establish a heritage committee to deal with heritage matters in your area
Outcome 1	Increased community participation, awareness and appreciation of heritage in the local area

Council Response

Continue the Coffs Harbour City Council Heritage Executive Committee for an ongoing period (to be reviewed on an ongoing basis every three years) to assist Council to actively promote heritage conservation.

Actions to be undertaken:

- a. Continue to assist with the survey work noted in 2 below.
- b. Continue to advise Council and the community on planning, management & promotion of the City's heritage resources.
- c. Continue to oversee the implementation of the Local Heritage Fund.

Recommendation 2	Identify the heritage items in your area and list them in your local environmental plan
Outcome 2	Increased knowledge and proactive management of heritage in your local area

Council Response

- (a) Continue to survey and legally protect** all known heritage items in the Coffs Harbour local government area.

Actions to be undertaken:

Coffs Harbour City Council staff and the Heritage Executive Committee are to continue to use the 1998 heritage study, public submissions and other relevant studies including the Sawtell specific Heritage study (2002), and the Kayandel heritage report for Red Rock and Corindi Beach (2007) with a view to preparing a more comprehensive list of heritage items for insertion into the Coffs Harbour City Council Local Environmental Plan (Standard Instrument LEP).

(b) Put in place good measures to assess all development applications involving heritage items e.g. appropriate development control plans..

Actions to be undertaken:

- (i) Coffs Harbour City Council to review its current practice with its heritage advisory service to ensure that best practice arrangements are maintained and improved where necessary with regard to development affecting heritage listed properties under Coffs Harbour City Council Local Environmental Plan 2000 in the short term (ongoing), and the Standard Instrument LEP in the medium to long term.
- (ii) Appropriate development control plans are to be established, and/or relevant heritage and urban design guidelines are to be inserted into the appropriate development control plans.
- (iii) Additional briefing is also to be undertaken with Land Use Assessment and Management staff regarding listed and unlisted heritage items, and recommendations for Development Applications on those sites and adjacent sites.

Recommendation 3	Appoint a heritage advisor to assist the council, the community and owners of listed items
Outcome 3	Increased community participation and proactive heritage and urban design management in your local areas

Council Response

Encourage best practice heritage conservation through providing free heritage advisory services, promotion and incentives.

Actions to be undertaken:

- a. Coffs Harbour City Council to continue its heritage advisory service at current levels.
- b. Coffs Harbour City Council to issue simple heritage brochures – each to cover a different aspect of heritage promotion i.e. with the first mail out of its main rates notice.
- c. Coffs Harbour City Council to continue its local heritage fund for an ongoing period of 3 years (subject to continued funding), to encourage owners of heritage listed properties and properties contained in the Conservation Areas of Sawtell and Coramba to undertake conservation work.
- d. Continue to establish themed heritage trails throughout the City, with a focus on rural heritage and landscapes and the Conservation Areas of Coramba and Sawtell.
- e. Establish appropriate Heritage Plaques and/or signs to be located on significant sites and incorporated into the heritage trails.
- f. Continue to promote "cultural heritage" of the area, e.g. Aboriginal heritage, Sikh community etc.
- g. Continue to promote the Cultural/Social heritage of the area through Festive Days and special events that promote cultural heritage – e.g. Curryfest on the Northern Beaches.
- h. Incorporate, establish and promote Glenreagh Mountain Railway activities in the villages of Ulong and Lowanna (as identified by the communities of Ulong and Lowanna through the formulation of their Community Plan).

Recommendation 4 Manage local heritage in a positive manner

Outcome 4 Proactive heritage and urban design management in your local area

Council Response

Encourage positive, proactive, best practice heritage conservation through providing free heritage advisory services, promotion and incentives.

Actions to be undertaken:

- a. Coffs Harbour City Council to continue its heritage advisory service at current levels.
- b. Council's heritage contact officer to ensure that referred development applications give consideration to heritage and urban design principles e.g. appropriate development control plans.

Recommendation 5 Introduce a local heritage fund to provide small grants to encourage local heritage projects

Outcome 5 Increased community participation and proactive conservation and management of heritage in your local area

Council Response

Encourage best practice heritage conservation through providing a local heritage fund for maintenance costs and other conservation projects on heritage items.

Actions to be undertaken:

Coffs Harbour City Council to continue its local heritage fund for an ongoing period of 3 years (subject to continued funding), to encourage owners of heritage listed properties and properties contained in the Conservation Areas of Sawtell and Coramba to undertake conservation work.

Recommendation 6 Run a main street program

Outcome 6 Council, owners and the community actively participate in attractive and well-managed heritage main streets

Council Response

Encourage interaction between all stakeholders to achieve best practice heritage conservation through commissioning further main street studies.

Actions to be undertaken:

Council to progress beautification works on First Avenue at Sawtell.
Council to investigate the commissioning of further main street studies / conservation management plans.

Recommendation 7 Present educational and promotional programs

Outcome 7 Increased awareness and appreciation of heritage by Council, owners and the community in your area

Council Response

Encourage and foster best practice heritage conservation through providing educational and promotional services.

Actions to be undertaken:

- a. Continue to establish themed heritage trails throughout the City, with a focus on rural heritage and landscapes and the Conservation Areas of Coramba and Sawtell.
- b. Establish appropriate Heritage Plaques and/or signs to be located on significant sites and incorporated into the heritage trails.
- c. Continue to promote "cultural heritage" of the area, e.g. Aboriginal heritage, Sikh community etc.
- d. Continue to promote the Cultural/Social heritage of the area through Festive Days and special events that promote cultural heritage – Curryfest on the Northern Beaches.
- e. Incorporate, establish and promote Glenreagh Mountain Railway activities in the villages of Ulong and Lowanna (as identified by the communities of Ulong and Lowanna through the formulation of their Community Plan).
- f. Coffs Harbour City Council to issue simple heritage brochures – each to cover a different aspect of heritage promotion i.e. with the first mail out of its main rates notice.

Recommendation 8 Set a good example to the community by properly managing places owned or operated by council

Outcome 8 Increased community participation and proactive conservation and management of heritage in your area

Council Response

Lead by example by taking good care of its own heritage items - halls, school of arts, cemeteries, historic parks, street trees, etc

Actions to be undertaken:

- a. Council to investigate the commissioning of main street studies / conservation management plans.
- b. Coffs Harbour City Council to continue to draw up action plans for each of the heritage elements for which the council has responsibility.
- c. Council to seek indicative costs for work from appropriate sources
- d. Council to give priority to the above work to be carried out.

Recommendation 9	Promote sustainable development as a tool for heritage conservation
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Outcome 9	Proactive heritage and sustainable development in your area
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Council Response

Raise awareness of Council's role in promoting sustainable development within the community and emphasise the importance of heritage conservation within the process.

Actions to be undertaken:

- a. Include heritage conservation themes within material promoting sustainable development.
- b. Appropriate development control plans are to be established, and/or relevant heritage and urban design guidelines are to be inserted into the appropriate development control plans.

HERITAGE STRATEGIC PLAN

The following are in accordance with the Heritage Advisory Committee's (incl. Place Committees and Community Economic Development Structure) aim to facilitate a number of heritage projects; consistent with the Committee's role in advising Council and the Community on planning, management and promotion of Coffs Harbour's heritage resources.

Strategy	Strategic Actions	Who's Responsible	When will it be Achieved?	Status
Survey and Protect Heritage Items	<ul style="list-style-type: none"> Review 1998 Heritage Study / public submissions / Sawtell Heritage Study 2002 / Kayandel heritage report for Red Rock and Corindi Beach (2007) 	CHCC & HEC	Ongoing	
	<ul style="list-style-type: none"> Review heritage items and incorporate in Council's Standard LEP process. 	CHCC	Draft Standard LEP to be completed by August 2009	
Assessment of Development Applications	<ul style="list-style-type: none"> Review best practise procedures 	CHCC	Ongoing	
	<ul style="list-style-type: none"> Train and assist Land Use Management & Assessment Staff 	CHCC	Ongoing	
Develop a series of heritage guideline brochures to facilitate community awareness and understanding of history, heritage and conservation management principles.	<ul style="list-style-type: none"> Develop a series of conservation guideline fact sheets 	CHCC & HEC	To be determined Likely August 2009	
	<ul style="list-style-type: none"> Review heritage significance of items throughout Coffs LGA and develop guidelines to encourage conservation of the sites. 	CHCC & HEC	To be determined Likely August 2009	
Investigate opportunities to promote heritage by establishing a heritage trail network	<ul style="list-style-type: none"> Research Australian and International trails programs 	CHCC & HEC	Completed	
	<ul style="list-style-type: none"> Identify key sites for inclusion in LGA wide heritage trail-rural/landscape; conservation areas – Sawtell and Coramba, etc 	CHCC, HEC	Completed	
	<ul style="list-style-type: none"> Establish budget to produce Heritage Trail Brochure/s 	CHCC & Place Committees	January 2009	
	<ul style="list-style-type: none"> Prepare Heritage Trail brochures 	CHCC, HEC & Place Committees	January 2009	
	<ul style="list-style-type: none"> Identify key sites for interpretive and/or site signage 	CHCC, HEC & Place Committees	March 2009	
	<ul style="list-style-type: none"> Source photographs for interpretive signs at key sites 	CHCC, HEC & Place Committees	March 2009	
	<ul style="list-style-type: none"> Establish annual budget for reprinting and review of Heritage Trail Brochures 	CHCC & Place Committees	Annually	

Strategy	Strategic Actions	Who's Responsible	When will it be Achieved?	Status
Develop a comprehensive and integrated heritage interpretive signage (plaque) program for the Coffs Harbour LGA.	• Develop guidelines for criteria to establish signage (plaques), including opportunity for community sponsorship of signs	CHCC, HEC & Place Committees	To be determined Likely March 2009	
	• Establish annual budget for the provision and maintenance of heritage signs and plaques	CHCC, HEC & Place Committees	Annually	
	• Establish appropriate location for signs/plaques.	CHCC, HEC & Place Committees	To be determined Likely March 2009	
	• Integrate signs and plaque information into Heritage Trail Brochures	CHCC, HEC & Place Committees	To be determined Likely March 2009	
	• Develop text and signage to promote Heritage Trail at Coffs Harbour Visitors and Information Centre	CHCC, HEC & Place Committees	To be determined Likely March 2009	
Establish promotion and education programs to develop the community's awareness of the City's heritage and history.	• Establish consultation/liaison with the City's heritage groups, schools and interested parties.	CHCC, HEC & Place Committees	To be determined	
	• Facilitate a series of staff heritage conservation seminars and community workshops.	CHCC, HEC & Place Committees	To be determined	
	• Continue heritage advisory service at current levels, investigate ways to improve service	CHCC, HEC	Ongoing	
Promote cultural/social heritage of the area, e.g. Aboriginal heritage; Sikh community	• Identify sites for interpretive signage/posters	CHCC, HEC & Place Committees	Ongoing	
	• Encourage/assist research into cultural heritage	CHCC, HEC & Place Committees and community	Ongoing	
	• Assist in "festive days" and special events that promote cultural heritage - e.g. Curryfest, Glenreagh Mountain Railway events.	CHCC, HEC & Place Committees	Ongoing	

CHCC - Strategic Planning Section including in house heritage contact officer.
HEC – Heritage Executive Committee

CORPORATE BUSINESS DEPARTMENT REPORT

C23 COFFS HARBOUR & DISTRICT EX-SERVICEMEN AND WOMEN'S MEMORIAL CLUB LIMITED - LEASE OF PART OF CASTLE STREET MULTI-LEVEL CAR PARK

Purpose:

Seeking Council approval for Coffs Harbour Ex-Services Club to hold over under the terms of its existing lease of part of the Castle Street Multi-Level Car Park.

Description of Item:

Council currently leases part of the Castle Street Multi-Level Car Park to the Coffs Harbour & District Ex-Servicemen and Women's Memorial Club Limited.

Details of the lease are as follows:

- Premises: Mezzanine No. 1, Mezzanine No. 2 & Level 2 Multi Level car Park, Castle Street, Coffs Harbour;
- No of Car Park Spaces: 56;
- Lease Term: 5 years (Note: There is no option to renew, however the Lease does include a holding over provision on a month to month basis. Termination by either party by giving one month's written notice.)
- Commencement Date: 30 May 2003;
- Expiry Date: 29 May 2008;
- Rental: \$48,000 per annum (plus GST) payable at rate of \$4,000.00 per month in advance (no rent reviews during lease term).
- Outgoings: Lessee pays 26.5% of Council rates and charges, water, sewer and drainage, land tax.

I note that a special provision in the lease states that the tenant has a right to "..... *surrender this lease at any time during the term provided the tenant has first provided additional car parking at its own property equivalent to the spaces within the premises plus 6 further spaces*".

This latter provision relates to a development approval given previously to the Club which required the provision of a specified number of car parking spaces. An approval was given to the Club at the time to provide these car park spaces (on an interim / temporary basis) by way of leasing the additional spaces, which they could not provide on their own property, from Council.

Council is now in receipt of a letter (dated 17 March 2008) from the Ex-Services Club advising that the Club has recently commenced construction of a new car parking facility within the Club's property with an anticipated completion date of 31 October 2008.

The Club has requested a six (6) month extension of the lease until 29 November 2008.

A six month extension will result in the Club paying additional rent of \$24,000 (plus GST) to Council (as well as a contribution toward the Rates for that period).

Cont'd

C23 Coffs Harbour & District Ex-Servicemen and Women's Memorial Club Limited - Lease of Part of Castle Street Multi-Level Car Park ...(Cont'd)

Sustainability Assessment:

- **Environment**

Proposal relates to extension of an existing lease agreement. No adverse impacts envisaged.

- **Social**

A six month extension of the Club's Lease arrangement will not have any adverse impact on social aspects of the proposal. The Club will continue to use the premises for car parking purposes, thus making parking available for community club members, as well as providing further income for the Council's Management Plan.

- **Economic**

Broader Economic Implications

As this relates to an extension of time for an existing Lease arrangement it is considered there will be no adverse impacts arising from approval by Council.

Management Plan Implications

Agreement to the Coffs Harbour Ex-Services Club holding over for a further six months under the terms of its Lease will result in Council receiving an additional \$24,000 rental income.

Consultation:

The Club's request was referred to Council's Senior Executive Management Team for notification and approval. It has been requested that the matter be referred to Council for consideration.

Related Policy and / or Precedents:

This section of the Castle Street Multi-Level Car Park has been leased to the Coffs Harbour Ex-Services Club for many years. An extension of lease as requested by the Club is considered to be in line with normal operational procedures and falls within standard leasing practices.

Statutory Requirements:

Extension of the lease as requested by the Club will be in accordance with the provisions of the Lease Agreement. The subject lease was entered into in line with requirements under the Local Government Act 1993, Conveyancing Act 1919, and the Real Property Act 1900.

Cont'd

C23 Coffs Harbour & District Ex-Servicemen and Women's Memorial Club Limited - Lease of Part of Castle Street Multi-Level Car Park ...(Cont'd)

Issues:

As indicated, the Coffs Harbour Ex-Services Club has been leasing part of Council's Castle Street Car Park (56 car park spaces on three levels) for five years. An associated Licence Agreement provides for an additional 6 car parking spaces on the fourth level of the car park, making a total car space allocation for the Club of 62 spaces. Prior to this, the Club leased four levels (76 car park spaces) for a period of ten (10) years from May 1993.

These leasing arrangements are linked to condition 6 within consent issued by Council in respect of Development Application 1262/99. This development consents relates to building extensions / building additions at the Coffs Ex-Services Club premises.

It is also noted that Condition 6 of DA 1262/99 states that the assessed car parking space quota for the development is to be provided on site as well as by the spaces leased by Council to the Coffs Harbour Ex-Services Club.

The Club is currently building a new decked car park within its own property (DA 434/08), which will provide adequate on-site parking to comply with Council's car parking requirements. Once completed this will address the Club's car parking requirements and will obviate the need to maintain the Club's lease of part of Council's multi-level car park.

The Club's request to extend the lease term for an additional six months will enable it to continue to comply with the original development consent. It is considered that should Council not agree to this extension of lease then Council would in effect be putting the Club in a position of breaching its development consent condition.

As such it is therefore recommended that the requested extension of lease (via holding over provisions existent within the Lease Agreement) be approved.

Implementation Date / Priority:

The extension of Lease will continue on a month to month basis following expiration of the initial five (5) year term of the lease (ie, from 30 May 2008).

Recommendation:

That Council agree to the written request of Coffs Harbour and District Ex-Servicemen and Women's Memorial Club Limited for an extension of lease for a further six months to enable the Club to complete construction of its own additional on-site car parking facility.

**D C Allen
Director Corporate Business (Acting)**

**L6 CONTRACT EXTENSION - COFFS COAST WASTE SERVICES CONTRACT NO.
04/05-183-TO**

Purpose:

To recommend that the Coffs Coast Waste Services Contract, which is held by Handybin Waste Services (Coffs Harbour) Pty Ltd, be extended by 6 months, in compensation for delays in commissioning the Biomass waste processing plant.

Description of Item:

Council at its meeting of 2 June 2005 accepted a tender from Handybin Waste Services (Coffs Harbour) Pty Ltd for Coffs Coast Regional Waste Services, Contract Number 04/05-183-TO. At around the same time Bellingen and Nambucca Councils accepted the same tender, so that the three Councils were jointly party to the same contract, under the banner of Coffs Coast Waste Services.

The ten year contract took effect from the date of commencement of services on 28 November 2005.

The contract was framed on the basis of a two stage implementation so as to coincide with the expected commissioning of the Biomass Plant. Stage 1 of the contract involved provision of a weekly mixed waste service and fortnightly recycling service to the three Councils and in addition, a fortnightly greenwaste service to Coffs Harbour premises only.

The contract envisaged that the Biomass plant would be commissioned 6 months later, at which time Stage 2 of the service would be rolled out. Roll out of Stage 2 involved providing the three bin service across the three Council areas, with weekly organics, and fortnightly recycling and mixed waste services. It was expected that the transfer station service for Bellingen and Nambucca would occur at this time.

Delays subsequently occurred in commissioning the Biomass plant, due to a range of issues including a lengthy process in preparing the Environmental Impact Statement and gaining the necessary planning approvals, site preparation and civil works delays, and difficulties with equipment suppliers.

As a result, Stage 2 of the collection services did not commence until 5 March 2007, some 15 months after Stage 1 commencement. Thus, a delay occurred of around 9 months from what was identified in the contract documentation and Handybin's tender submission.

Handybin submitted a claim in October 2007 (Confidential Attachment A) which argued for compensation to take into account the losses incurred. The claimed losses included inability to fully recover leasing and depreciation costs in relation to additional capital required for the Stage 2 services, such as bins and trucks.

On 28 November 2007 Council officers, and MBT Lawyers entered into negotiations with Handybin to try and resolve this issue. A further meeting was held with MBT Lawyers, Handybin and the General Managers of the Coffs Harbour, Nambucca and Bellingen Councils on 5 December 2007 to discuss this and other waste management issues. The outcomes of these negotiations and discussions are distilled in the attached legal advice dated 29 February 2008 from MBT Lawyers (Confidential Attachment B).

Cont'd

L6 Contract Extension - Coffs Coast Waste Services Contract No. 04/05-183-TO ...(Cont'd)

In summary the position was reached that, subject to the approval of the three Councils, Handybin be granted a 6 month extension to its Contract in full compensation for the delays.

MBT Lawyers advise: *In my view, the compromise arranged is a good result for all Councils and I recommend Councils agree to the extension.*

Sustainability Assessment:

The extension of the existing collection contract will have no negative environmental impacts. Councils are obliged to provide domestic waste collection services, and the current contract maximises resource recovery.

- **Social**

An advantage of the 6 month extension will be that the roll out of the new contract services would take place in late May 2016, as opposed to the busy Christmas period in 2015 when the contract currently expires. This would mean less social disruption and smoother transition to new services at that time.

- **Economic**

The contract extension will not affect monthly contract payments and will have no impacts on Council's Management Plan for 2007/08 nor any Management Plan until 2015/2016.

In the financial year 2015/2016, because of the six month contract extension there maybe a price differential between the existing contract prices and the potential new contract prices. The impact, which could be positive or negative, cannot be predicted at this time.

The lease in respect to the land identified under the Contract on which the Materials Recovery Facility is located would also need to be extended accordingly.

The three Council's have agreed under a Tripartite Agreement to undertake joint waste services for 20 years, until the Biomass waste processing contract expires.

Statutory Requirements:

The Nambucca, Bellingen and Coffs Harbour City Councils are all party to the Coffs Coast Regional Waste Services contract. The proposed contract variation is significant and therefore requires the formal concurrence of all three Councils to proceed.

The negotiated 6 month extension, which is recommended in this report has been accepted by Handybin. Should the three Councils not endorse this option, then further negotiations would be required to reach a solution acceptable to all parties, failing which the contractor would likely take action under the dispute resolution provisions of the Contract and potentially court action.

Recommendation:

- 1. That, subject to the concurrence of both Nambucca and Bellingen Shire Councils, the contract for Coffs Coast Waste Services Number 04/05-183-TO, which is held by Handybin Waste Services (Coffs Harbour) Pty Ltd, be extended by six months to a duration of ten years and six months.**
- 2. That the revised Contract and Lease be executed under Council seal.**