



TAMWORTH REGIONAL COUNCIL

Notice is hereby given, in accordance with the provisions of the Local Government Act 1993 that a **Meeting of Tamworth Regional Council** will be held in the **Council Chambers, 4th Floor Ray Walsh House, 437 Peel Street, Tamworth**, commencing at **6:30pm**.

ORDINARY COUNCIL AGENDA

10 AUGUST 2021

**PAUL BENNETT
GENERAL MANAGER**

Order of Business

ITEM	SUBJECT	PAGE NO
1	APOLOGIES AND LEAVE OF ABSENCE	4
2	COMMUNITY CONSULTATION.....	4
3	MINUTES OF PREVIOUS MEETING SUBMITTED FOR APPROVAL.....	4
4	DISCLOSURE OF INTEREST	4
5	MAYORAL MINUTE	4
5.1	ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (COMPLIANCE FEES) REGULATION 2021	4
	1 ANNEXURES ATTACHED	
6	NOTICE OF MOTION	7
	OPEN COUNCIL REPORTS	7
7	ENVIRONMENT AND PLANNING	7
7.1	COMMUNITY CONSULTATION OUTCOMES AND FINALISATION OF THE TAMINDA EMPLOYMENT LANDS PLANNING PROPOSAL.....	7
	6 ANNEXURES ATTACHED	
	1 CONFIDENTIAL ENCLOSURES ENCLOSED	
7.2	AMENDMENT TO THE TAMWORTH REGIONAL LOCAL ENVIRONMENTAL PLAN 2010 - PLANNING PROPOSAL TO FACILITATE THE ONGOING OCCUPATION OF THE INTERNATIONAL FLIGHT TRAINING TAMWORTH ACCOMMODATION FACILITY	12
	1 ANNEXURES ATTACHED	
8	INFRASTRUCTURE AND SERVICES	16
8.1	EXPRESSION OF INTEREST – FUTURE USE OF THE RANCH 226 OXLEY LANE WESTDALE.....	16
	1 ANNEXURES ATTACHED	
8.2	EXPRESSION OF INTEREST – SHORT TERM USE OF 284 GIDLEY APPLEBY LANE	18
	1 ANNEXURES ATTACHED	
9	GOVERNANCE, STRATEGY AND FINANCE.....	20
9.1	ORDINARY COUNCIL MEETING FOR SEPTEMBER AND DECEMBER 2021	20
9.2	AUDIT, RISK AND IMPROVEMENT COMMITTEE	21
	1 ENCLOSURES ENCLOSED	
10	COMMUNITY SERVICES.....	21
11	REPORTS TO BE CONSIDERED IN CLOSED COUNCIL.....	21

Council

Meeting Date: 2nd and 4th Tuesday of the month commencing at 6:30pm.

Matters determined by Ordinary meetings will include all those non-delegable functions identified in Section 377 of the Local Government Act as follows:

- *“the appointment of a general manager*
- *the making of a rate*
- *a determination under section 549 as to the levying of a rate*
- *the making of a charge*
- *the fixing of a fee*
- *the borrowing of money*
- *the voting of money for expenditure on its works, services or operations*
- *the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment)*
- *the acceptance of tenders which are required under this Act to be invited by the council*
- *the adoption of an operational plan under section 405*
- *the adoption of a financial statement included in an annual financial report*
- *a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6*
- *the fixing of an amount or rate for the carrying out by the council of work on private land*
- *the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work*
- *the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the [Environmental Planning and Assessment Act 1979](#)*
- *the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194*
- *a decision under section 356 to contribute money or otherwise grant financial assistance to persons*
- *the making of an application, or the giving of a notice, to the Governor or Minister*
- *this power of delegation*
- *any function under this or any other Act that is expressly required to be exercised by resolution of the council.”*

Other matters and functions determined by Ordinary Council Meetings will include:

- *Notices of Motion*
- *Notices of Motion of Rescission*
- *Council Elections, Polls, Constitutional Referendums and Public Hearings/Inquiries*
- *Ministerial Committees and Inquiries*
- *Mayor and Councillors Annual Fees*
- *Payment of Expenses and Provision of Facilities to Mayor and Councillors*
- *Local Government Remuneration Tribunal*
- *Local Government Boundaries*
- *NSW Ombudsman*
- *Administrative Decisions Tribunal*
- *Delegation of Functions by the Minister*
- *Delegation of Functions to General Manager and Principal Committees*
- *Organisation Structure*
- *Code of Conduct*
- *Code of Meeting Practice*
- *Honesty and Disclosure of Interests*
- *Access to Information*
- *Protection of Privacy*
- *Enforcement Functions (statutory breaches/prosecutions/recovery of rates)*
- *Dispute Resolution*
- *Council Land and Property Development*
- *Annual Financial Reports, Auditors Reports, Annual Reports and Statement of the Environment Reports*
- *Performance of the General Manager*
- *Equal Employment Opportunity*
- *Powers of Entry*
- *Liability and Insurance*
- *Membership of Organisations*

Membership: All Councillors
Quorum: Five members
Chairperson: The Mayor
Deputy Chairperson: The Deputy Mayor

Community Consultation Policy

The first 30 minutes of Open Council Meetings is available for members of the Public to address the Council Meeting or submit questions either verbally or in writing, on matters INCLUDED in the Business Paper for the Meeting.

Members of the public will be permitted a maximum of three minutes to address the Council Meeting. An extension of time may be granted if deemed necessary.

Members of the public seeking to represent or speak on behalf of a third party must satisfy the Council or Committee Meeting that he or she has the authority to represent or speak on behalf of the third party.

Members of the public wishing to address Council Meetings are requested to contact Council either by telephone, in person or online prior to 4:30pm the day prior to the Meeting to address the Council Meeting. Persons not registered to speak will not be able to address Council at the Meeting.

Council will only permit three speakers in support and three speakers in opposition to a recommendation contained in the Business Paper. If there are more than three speakers, Council's Governance division will contact all registered speakers to determine who will address Council. In relation to a Development Application, the applicant will be reserved a position to speak.

Members of the public will not be permitted to raise matters or provide information which involves:

- personnel matters concerning particular individuals (other than Councillors);
- personal hardship of any resident or ratepayer;
- information that would, if disclosed confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business;
- Commercial information of a confidential nature that would, if disclosed:
 - prejudice the commercial position of the person who supplied it, or
 - confer a commercial advantage on a competitor of the Council; or
 - reveal a trade secret;
- information that would, if disclosed prejudice the maintenance of law;
- matters affecting the security of the Council, Councillors, Council staff or Council property;
- advice concerning litigation or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege;
- information concerning the nature and location of a place or an item of Aboriginal significance on community land;
- alleged contraventions of any Code of Conduct requirements applicable under Section 440; or
- on balance, be contrary to the public interest.

Members of the public will not be permitted to use Community Consultation 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.

Disclosure of Political Donations or Gifts

If you have made a relevant planning application to Council which is listed for determination on the Council Business Paper you must disclose any political donation or gift made to any councillor or employee of the Council within the period commencing two years before the application is made and ending when the application is determined (Section 147(4) Environmental Planning and Assessment Act 1979).

If you have made a relevant public submission to Council in relation to a relevant planning application which is listed for determination on the Council Business Paper you must disclose any political donation or gifts made to any councillor or employee of the Council by you as the person making the submission or any associate within the period commencing two years before the submission is made and ending when the application is determined (Section 147(5) Environmental Planning and Assessment Act 1979).

AGENDA

- 1 **APOLOGIES AND LEAVE OF ABSENCE**
- 2 **COMMUNITY CONSULTATION**
- 3 **MINUTES OF PREVIOUS MEETING SUBMITTED FOR APPROVAL**

RECOMMENDATION

That the Minutes of the Ordinary Meeting held on Tuesday, 27 July 2021, copies of which were circulated be taken as read and confirmed as a correct record of the proceedings of the Meeting.

4 **DISCLOSURE OF INTEREST**

5 **MAYORAL MINUTE**

5.1 **ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (COMPLIANCE FEES) REGULATION 2021**

DIRECTORATE: OFFICE OF THE GENERAL MANAGER
AUTHOR: Col Murray, Mayor

1 ANNEXURES ATTACHED

RECOMMENDATION

That in relation to the report “Environmental Planning and Assessment Amendment (Compliance Fees) Regulation 2021”, Council:

- (i) *write to the Hon Rob Stokes, Minister for Planning and Public Spaces to:*
 - *express Council’s extreme disappointment at the lack of genuine consultation with local government in its recent decision to make the Environmental Planning and Assessment Amendment (Compliance Fees) Regulation 2021; and*
 - *request that the decision be reversed and that the State Government implement (at the least) a two year moratorium on the removal of the Compliance levy for all Councils, to enable a transition to any new scheme;*
- (ii) *place on the agenda of the next Namoi Joint Organisation meeting a recommendation seeking urgent collective action among its members to advocate in opposition to the latest State Government Regulation prohibiting compliance levies on Development Applications; and*
- (iii) *write to the Member for Tamworth Kevin Anderson seeking his urgent support and assistance for an immediate review and moratorium on the recent Environmental Planning and Assessment Amendment (Compliance Fees) Regulation 2021, to allow councils additional time to investigate alternative funding models to enable continuation of current compliance services to local communities*

SUMMARY

On 31 March 2021, without any prior consultation, and as part of an announced review of building and development compliance levies, the State Department of Planning, Industry and Environment (DPIE) advised that from 1 July 2021, local governments would not be able to charge compliance levies on development applications.

This decision was delayed for Councils already charging a levy until 31 December 2021. However, despite assurances by DPIE that the Department would undertake further consultation with Councils, as well as LGNSW interceding on behalf of affected Councils, the Environmental Planning and Assessment Amendment (Compliance Fees) Regulation 2021 was made on 16 July 2021, without any further engagement.

The implications of this decision by the Government for Tamworth Regional Council is an annual loss in revenue of \$270,000 that is used to fund Council's Compliance function on behalf of the community.

COMMENTARY

Similar to a number of other NSW Councils, Tamworth Regional Council has charged a compliance levy on Development Applications for the past two years under Section 608 of the *Local Government Act*. This charge has funded two compliance officers, a part time business support officer and the equipment and resources required for the Compliance team to fulfil its functions.

Following intense lobbying from LGNSW and the Councils involved, the DPIE agreed to defer the prohibition of existing compliance levies until the end of 2021, to enable further consultation with affected Councils.

However, despite the Department's commitment, prior to any further engagement taking place, the Environmental Planning and Assessment Amendment (Compliance Fees) Regulation 2021, **ATTACHED**, refer **ANNEXURE 1**, was made on 16 July 2021. This amendment to the existing legislation had the effect of prohibiting a compliance fee being levied on any Development Application after 31 December 2021. This Regulation was made in the same month the Government saw the passage of new legislation which facilitates 'compliance levies' for the NSW Building Commissioner's Office. What this means is that the Building Commissioner now has the legislative ability to levy a compliance fee while Council does not. Further compounding this loss, local governments will be required to collect the new compliance levies for the Building Commissioner's Office and remit those funds to the State.

Implications for Tamworth Regional Council

Disappointingly, this new Regulation indicates a serious lack of understanding and disregard for the legitimate concerns expressed by Tamworth Council and others in desiring to ensure that our compliance services are adequately resourced.

For Tamworth Regional Council, this change represents a \$270,000 reduction in projected annual revenue. What this means is that Council will now be forced to revise the extent of its current compliance services, much to the detriment of our community and environment. The decision will also restrict Council's capacity to assist State Government compliance agencies in their investigations and enforcement within the Tamworth LGA.

Should Council be of a mind to continue the current level of service, it would be forced to make the likely unpalatable decision to move from an educational and proactive approach to a more hard-line, enforcement style. Infringements and cost recovery for investigations

would need to be a much higher focus. This in itself would potentially create increased legal and financial risk as more infringements issued means more opportunities for those decisions to be challenged in the courts.

With either of the two options above, the most difficult aspect will be the reduction in community satisfaction with Council's compliance service. A reduced service will mean dissatisfaction amongst complainants due to increased time required to address complaints and a necessary prioritisation of types of complaints to be followed up. The alternative – a more rigid enforcement stance with an increased focus on fines and cost recovery notices, will of course create negativity towards Council from the majority of those investigated, who under the current compliance policy, would respond positively to the focus on education.

Council Response

It is considered vital that Tamworth Regional Council join with other affected Councils and LGNSW to activate a further campaign of advocacy.

LGNSW has stated that it considers this to be an unacceptable impost on councils which will no doubt add to the considerable hardship many councils, (particularly rural and regional LGAs) are experiencing. LGNSW will be strongly responding to the Government's action and has requested our Council's assistance by providing information about the financial impacts of this change.

The State Government has publicly committed to fostering economic recovery by streamlining planning processes and reducing costs, which is welcomed and supported. However, this decision will have a significant impact on 29 councils across NSW including Tamworth Regional Council, and is in conflict with that stated position.

For Councils like Tamworth, the Compliance Levy is an opportunity to ensure adequate oversight and resourcing of statutory and regulatory responsibilities while resourcing the required up-front planning for growth where there is a significant lag in revenue growth. Coming on top of changes to the contributions planning framework and requirements for planning agreements, the removal of the compliance levy is yet another cut to local government funding without any reduction in demand.

It is proposed that Council call on the DPIE to reverse this decision and implement at least a two year moratorium on the removal of the levy for Councils already operating a compliance program based on this funding source. This will enable an appropriate transition to any new scheme as well as alternative budget arrangements for future financial years without impacting so significantly on service delivery over the short term.

(a) Policy Implications

If the decision by the State Government stands, the Compliance and Enforcement Policy will need to be reviewed to reflect a possible change to the enforcement approach adopted in the future.

(b) Financial Implications

The decision to enact the Environmental Planning and Assessment Amendment (Compliance Fees) Regulation 2021 on 16 July 2021, equates to a loss of at least \$270,000 p.a. in revenue from the Compliance Division budget.

(c) Legal Implications

Council's Compliance activities may be reduced or alternatively a more rigid cost recovery enforcement program adopted. This could result in additional legal challenges and legal cost.

(d) Community Consultation

It is relevant to note that in the two years since the compliance levy was implemented by way of a charge on Development Applications, other than in the first few days of charging, there have been no complaints from any applicants regarding payment of the levy.

(e) Delivery Program Objective/Strategy

A Spirit of Community – C31 Create safe environments to live, work and play.

6 NOTICE OF MOTION

Nil

OPEN COUNCIL REPORTS

7 ENVIRONMENT AND PLANNING

7.1 COMMUNITY CONSULTATION OUTCOMES AND FINALISATION OF THE TAMINDA EMPLOYMENT LANDS PLANNING PROPOSAL

DIRECTORATE: PLANNING AND COMPLIANCE
AUTHOR: Andrew Spicer, Senior Integrated Planner
Reference: Item 7.1 to Ordinary Council 22 October 2019 - Minute No 373/19

6 ANNEXURES ATTACHED
1 CONFIDENTIAL ENCLOSURES ENCLOSED

RECOMMENDATION

That in relation to the report “Community Consultation Outcomes and Finalisation of the Taminda Employment Lands Planning Proposal”, Council:

- (i) determine not to make the Local Environmental Plan pursuant to Section 3.36 of the Environmental Planning and Assessment Act 1979;*
- (ii) proceed to finalise the process by writing to the Department of Planning Industry and Environment in accordance with the prescribed guidelines advising of the outcome and attaching the relevant documentation including the resolution of Council; and*
- (iii) not pursue payment of the third instalment of the fee for processing the Planning Proposal being an amount of \$7,873.00 on the basis of Council resolving not to make the Local Environmental Plan.*

SUMMARY

Council completed the public exhibition of the *Taminda Employment Lands Planning Proposal* on 1 September 2020. Council received a number of submissions from the community and NSW Government Agencies during the exhibition period. The feedback from Council staff, public authorities and the community was considered and a number of issues

were identified. These included the site access, servicing (particularly sewer), the ultimate landform and management of stormwater and drainage on the site and in the locality. The last issue relating to drainage remains unresolved. As an amount of 155,000m³ of fill is proposed as a means of facilitating the sewer servicing of the land, concerns remain as to the physical practicality and financial viability of developing the site.

With the postponement of Local Government elections in NSW to 4 December 2021, Council will enter into caretaker mode on 5 November 2021, in advance of the Council election in December. Council has been advised by the Department of Planning, Industry and Environment (DPIE) that it can, by resolution, determine not to make the Local Environmental Plan into law pursuant to Section 3.36 of the *Environmental Planning and Assessment Act 1979*.

COMMENTARY

Planning Proposal Background

The objective of this planning proposal was to facilitate the development of employment lands on nine hectares of land on the western edge of the Taminda industrial area. The subject lands are identified as part Lot 2 and part Lot 3 in Deposited Plan 1234850, at 55 Dampier Street and 21 Wallamore Road, Taminda.

Maps showing the subject lands are **ATTACHED**, refer **ANNEXURE 1**.

The planning proposal involved the amendment of the *Tamworth Regional Local Environmental Plan 2010* (TRLEP 2010), Land Zoning Map to include 2.34 hectares in the *B5 – Business Development* zone and 6.66 hectares in the *IN1 – General Industrial* zone. The balance of the lots and the adjacent road reserve were to remain in the existing *RU4 – Primary Production Small Lots* zone.

At its Ordinary Meeting of 22 October 2019, Council resolved to forward the *Taminda Employment Lands Planning Proposal* to the DPIE requesting a Gateway Determination to proceed to public exhibition (Min No. 373/19). A Gateway Determination was received on 12 December 2019, advising Council that the proposal could proceed to public exhibition subject to certain conditions. The Gateway Determination and cover letter to Council are **ATTACHED**, refer **ANNEXURE 2**.

Significantly, the resolution of Council on 22 October 2019, stated that prior to public exhibition of the planning proposal the proponent was required to resolve matters pertaining to the servicing of the site and issues regarding vehicular access.

In addition, the Gateway Determination cover letter to Council which is published on the Department's website outlined that there remained two inconsistencies with S.9.1 Ministerial Directions and that the agreement of the Secretary of the Department of Planning, Industry and Environment's would be required to the resolution of these inconsistencies prior to the making of the Local Environmental Plan. These inconsistencies related to flood prone land and implementing regional plans.

In the months following the Gateway Determination, Council worked with the proponent to resolve the servicing and access issues to the extent that the proposal could be exhibited for public comment.

Public Exhibition

Public exhibition of the planning proposal commenced Monday, 3 August, and concluded on Tuesday, 1 September 2020.

Several submissions were received during the public exhibition period. The full submissions including personal details are **ENCLOSED** for the information of Councillors, refer to **CONFIDENTIAL ENCLOSURE 1**. A summary of the submissions is **ATTACHED**, refer **ANNEXURE 3**.

The submissions from Agencies and the public highlighted three principal concerns being flooding and stormwater management, traffic and access, and sewer servicing. These were supported by a number of comments made prior to and during the exhibition, including during site inspections of nearby properties. These comments raised specific concerns in relation to flooding and the veracity of the flood impact modelling included in the supporting studies lodged by the proponent in support of their planning proposal.

The submissions and comments received were in relation to the 'real world' experiences of land owners in the area and anecdotal accounts of flooding behaviour over several decades. Photographic evidence was also available and while each flood has its own characteristics an example of an event considered to be more frequent than a 1 in 20-year flow is **ATTACHED**, refer **ANNEXURE 4**.

At this juncture Council staff were of the opinion that the issues pertaining to flooding should be further investigated in relation to the proponent's servicing and access solutions in order to ensure that the proposed solutions fully considered potential flood impacts.

October/November 2020

To enable the further investigations to proceed, Council requested that DPIE approve an extension of six months to finalise the planning proposal in order to resolve the servicing and flooding issues to Council's satisfaction. Council received an *Alteration of Gateway Determination* on 2 November 2020, granting the extension, and requesting that the plan be made by 12 March 2021. This *Alteration of Gateway Determination* is **ATTACHED**, refer **ANNEXURE 5**. During this extension period Council and the proponent endeavoured to resolve issues pertaining to flooding and to achieve a sustainable flood mitigation and management solution.

Current Status

On the basis that discussions with the proponent were continuing, Council requested and received a further extension of six months until 12 September 2021, to complete the planning proposal. However, the accompanying letter from DPIE to Council was very clear in advising that a further extension of time would not be granted. This *Alteration of Gateway Determination* is **ATTACHED**, refer **ANNEXURE 6**.

Numerous subsequent discussions with the proponent have not been able to achieve an outcome that is able to satisfy Council that stormwater drainage relating to the potential future development of the land would be managed appropriately. This is due to the solution requiring the construction of a channel on land that is separate and geographically disconnected from the lands subject to the rezoning. The registration, or agreement to register, an easement for drainage of stormwater on this separate parcel of land has not been achieved.

Section 9.1 Ministerial Directions

In the letter from the DPIE accompanying the Gateway Determination, two 9.1 Ministerial Directions were identified as remaining to be resolved due to the inconsistency of the Planning Proposal in the two relevant areas/aspects. The two areas were specified as relating to Flood Prone Land and Implementation of Regional Plans. The letter is published

on the Department Website and accompanies the Gateway Determination and officially formed part of the exhibition material

Section 9.1 Direction: 4.3 Flood Prone Land

State flood planning controls were amended on 14 July 2021, including as they relate to this Direction, however, the planning proposal was assessed against the provisions that were in place at the time of the Gateway Determination public exhibition and during consultation with relevant agencies in accordance with relevant Departmental Guidelines.

Tamworth Regional Council is affected by this Direction as it is a relevant planning authority that has prepared a planning proposal that creates, removes or alters a zone and provisions (lot size and FSR) that affect flood prone land.

The Planning Proposal is inconsistent in two fundamental ways as quoted as follows in the Direction:

- *A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone; and*
- *A planning proposal must not contain provisions that apply to the flood planning areas which... permit a significant increase in the development of that land.*

Council does not have a floodplain risk management strategy in place for the locality and so can only resolve the inconsistency by obtaining the agreement of the Secretary of the Department of Planning, Industry and Environment that the provisions of the planning proposal that are inconsistent are of *minor* significance.

The flooding in the locality involves floodwaters from the fourth order stream of Timbumburi Creek and its confluence with the Peel River floodplain further to the north.

Nonetheless, the consultation response from the Biodiversity and Conservation Division of DPIE provides an indication that the inconsistency might be considered to be resolved if the proposed flood management strategy was applied. The response does not appear to acknowledge that the strategy requires floodwater be conveyed from Wallamore Road to Somerset Farm in some manner via the large Council Road reserve which otherwise represents a 300m 'break in the chain' of the strategy. The road reserve is a largely square shaped piece of land of approximately six hectares in this location.

It is also noted that the strategy proposed in the planning proposal differs somewhat from that proposed at this time as it was based on a channel width of 250m. The more recent strategy involves a narrower width channel for the most part but this is a consequence of the significant further investigations by the proponent and Council to arrive at an effective solution.

The agreed solution proposed involved the cooperation of four parties being; Council, the owner of Somerset Farm and the owners of the subject lands, i.e., the proponent of the planning proposal and another entity.

It was proposed that the creation and registration of an easement on Somerset farm to convey the floodwater/stormwater to the Peel River anabranch provides that the subject lands could potentially be filled and developed while not detrimentally impacting the locality.

The easement and associated works are required to complete the strategy and provide the opportunity for the ultimate development of the subject lands.

Section 9.1 Direction: 5.10 Implementation of Regional Plans

Council in this case is affected as it has prepared a planning proposal that applies to land to which a Regional Plan has been released by the Minister for Planning Industry and Environment, in this instance, the *New England North West Regional Plan 2036*.

The planning proposal was considered to be inconsistent as the proposed amendment is not reflected on the map of Tamworth on page 31 of the Regional Plan nor is it directly referred to in the local government narrative for Tamworth. The planning proposal is also inconsistent with Direction 12 of the Regional Plan relating to adapting to natural hazards of which flooding is specifically emphasised.

To resolve the inconsistency in the terms specified in the Direction, Council needs to satisfy the Secretary of the Department of Planning, Industry and Environment that the extent of the inconsistency is of minor significance and the proposal achieves the overall intent of the Regional Plan and does not undermine the achievement of its vision, land use strategy, goals direction or actions.

While the locality is included in a number of Council's strategic plans dating back to the *Taminda Revitalisation and Economic Development Strategy 2008*, the inconsistency with Direction 12 in the New England North West Regional Plan remains an important matter.

Conclusion

Council is now at the point of finalising the Taminda Employment Lands Planning Proposal. It was considered that the key element to enable the proposal to move forward was the registration of an easement through Somerset Farm to establish the basis for the strategy (proposed by the applicant) to manage drainage in the locality and stormwater from the subject lands. This would allow the ultimate development of the land for business and industrial purposes to proceed.

Despite extensive and exhaustive discussions, it has not been possible to secure an agreement for the registration of such an easement. This leaves the subject lands geographically separate from land that could provide options for drainage of stormwater and with no legal means of conveying stormwater from either the current land in its undeveloped state or exacerbated (increased flows) in a future developed state. To progress the planning proposal further in these circumstances does not represent sound land-use planning or a safe and sensible outcome for either a future developer or an adjoining affected landowner.

(a) Policy Implications

Nil

(b) Financial Implications

Council records indicate that the proponent has not yet paid the third instalment of Council fees for the processing of the planning proposal. The fee as published in Council 2021/2022 Fees and Charges is \$7,873.00. This was payable in conjunction with exhibition in August 2020, and covers the consequent finalisation of the planning proposal. A schedule of fees, including this fee, was provided on 1 August 2019, to advise the applicant from the outset of the costs to process the planning proposal.

On the basis that Council resolves not to make the Local Environmental Plan it is proposed that Council not invoice the proponent for the payment of this fee.

(c) Legal Implications

The Gateway Determination of 12 December 2019, authorised Council as the local plan-making authority to process the planning proposal to its finalisation. Pursuant to Section 3.36(2) of the *Environmental Planning and Assessment Act 1979*, Council as the local plan-making authority may, following community consultation, decide not to make the Local Environmental Plan.

(d) Community Consultation

Public exhibition of the planning proposal was undertaken from 3 August to 1 September 2020, in accordance Gateway Determination requirements. This included consultation with NSW Government Agencies, notification of landowners in the locality, online publication of exhibition material on Council's website and the NSW Government website. Physical displays were set up where possible observing COVID-19 requirements. Council's officers were available to discuss questions and comments from interested parties before, during and after the public exhibition period.

Two agency submissions and one community submission were received during the public exhibition period.

(e) Delivery Program Objective/Strategy

Region for the Future – F1 Sound asset and land planning to facilitate future community needs

7.2 AMENDMENT TO THE TAMWORTH REGIONAL LOCAL ENVIRONMENTAL PLAN 2010 - PLANNING PROPOSAL TO FACILITATE THE ONGOING OCCUPATION OF THE INTERNATIONAL FLIGHT TRAINING TAMWORTH ACCOMMODATION FACILITY

DIRECTORATE: PLANNING AND COMPLIANCE
AUTHOR: Sonya Vickery, Integrated Planner - IP&R

1 ANNEXURES ATTACHED

RECOMMENDATION

That in relation to the report "Amendment to the Tamworth Regional Local Environmental Plan 2010 (TRLEP 2010) – Regional Workforce Support Infrastructure", Council:

- (i) forward the Planning Proposal to the Department of Planning, Industry and Environment (DPIE) requesting an amendment to Schedule 1 of the TRLEP 2010 in accordance with Section 3.22 OR requesting a Gateway Determination in accordance with Sections 3.33 and 3.34 of the Environmental Planning and Assessment Act 1979;*
 - (ii) request that the Minister for Planning, Industry and Environment exercise his plan making powers to delegate to Council the authority to make the plan pursuant to Section 3.36 of the Environmental Planning and Assessment Act 1979; and*
 - (iii) upon receipt of a Gateway Determination, publicly exhibit the planning proposal in accordance with the terms of the Gateway Determination.*
-

SUMMARY

The purpose of this report is to seek a resolution of Council to amend the *Tamworth Regional Local Environmental Plan 2010 (TRLEP 2010)*, in relation to the lands identified as International Flight Training Tamworth, to achieve a land use planning outcome which will enable the ongoing use of the subject site and its existing accommodation facilities. The subject land adjoins the Tamworth Regional Airport and a map showing the subject land is **ATTACHED**, refer **ANNEXURE 1**.

The amendments proposed to the *TRLEP 2010*, via the planning proposal, are summarised as follows:

- insertion of an *Additional Permitted Use* into Schedule 1 of the *TRLEP 2010* enabling the subject site and associated facility to be occupied for the purpose of workers accommodation.

It is proposed that the existing zoning of the subject land as *SP1 – Special Activities (Transport)* be maintained.

The planning proposal aims to facilitate the use of the existing premises for the purpose of workers accommodation. The planning proposal is consistent with the objectives of the *New England North West Regional Plan 2036, Blueprint 100* Part 1 and Part 2, which is the *Tamworth Regional Local Strategic Planning Statement 2020*.

COMMENTARY

The subject land is identified as Lot 58 in DP 1221018, 2-26 Basil Brown Drive, Tamworth. The subject land is occupied by the International Flight Training Tamworth accommodation facility which is owned by Tamworth Regional Council.

The accommodation facility has been vacant for more than 12 months prior to the current occupation, following cessation of the contract for use of the facility by the flight training Organisation.

Development Standard	Description of Amendment
Schedule 1- Additional Permitted Use	Under the <i>Tamworth Regional Local Environmental Plan 2010</i> , the subject lot is currently <i>SP1 – Special Activities (Transport)</i> . The planning proposal seeks to amend Schedule 1 - Additional Permitted Uses of the <i>TRLEP 2010</i> to list workers accommodation as applicable to the subject lands.

The subject site is currently zoned *SP1 - Special Activities (Transport)* in accordance with the provisions of the *TRLEP 2010*. The *SP1 – Special Activities* zoning restricts the number of long-term potential uses of the site to “*airport related activities*”.

Currently the facility provides for the temporary accommodation of international and inter-state workers associated with a number of industries including the meat processing industry. Approval for this use is limited by the provisions of Clause 2.8 - Temporary Use of Land in the *TRLEP 2010*. Uses granted under this clause limit temporary development to a maximum period of 182 days within a 12 month period. No other legal avenue exists for the ongoing use of this facility for the accommodation of workers. This planning proposal is the only legal method of amending the *TRLEP 2010*, to permit the accommodation of workers upon the subject land.

The existing capacity of the Tamworth Region to provide appropriate, affordable housing to essential workers, temporary workforces and workers associated with infrastructure projects or other economic development activities in the region is considerably limited. The existing facility is suitable and appropriate for filling the gap in this market. From a business and economic development perspective and in light of the current Covid-19 environment it is considered that the site should be utilised to its full potential and not remain vacant once the existing lease expires.

Opportunities to support the economic viability and growth of the region need to be addressed wherever possible to ensure that future interest and investment is not compromised.

The proposed amendment to the *TRLEP 2010*, would allow the subject land to provide workers accommodation for specialist, additional or temporary workforces in support of existing and future public and private industries including, but not limited to: infrastructure projects, food processing operations, industrial expansion and transport hub development. Moreover, the existing site does not require any additional construction, retro-fitting or significant capital expenditure in order to provide accommodation to workers now, with minimal delay.

The objective of the planning proposal is to facilitate the occupation of the existing premises for workers accommodation. This would be facilitated by the insertion of an *Additional Permitted Use* into Schedule 1 of the *TRLEP 2010*, enabling the subject site and associated facility to be occupied for the purpose of workers accommodation.

Planning Proposal Process

In order to amend the *TRLEP 2010*, Council is required to submit the planning proposal to the Department for a Gateway Determination. Upon the issue of a Gateway Determination, the planning proposal will be placed on public exhibition and any additional studies or agency referrals required by the Department will be undertaken. It is recommended that Council request a minimal exhibition period.

Economic Impact

Providing affordable accommodation for essential workers and temporary workforces provides a direct economic benefit to the Tamworth regional economy. There are a number of positive impacts.

Impact on Output

The direct addition of 100 jobs in the Food Product Manufacturing sector of the Tamworth Regional Council economy is estimated to lead to a corresponding direct addition of \$44.32 million in Output from the local Food Product Manufacturing sector. From this direct expansion in the economy it is anticipated that there would be flow on effects to other related intermediate industries, creating a further increase of \$41.79m in Output. This represents a Type 1 employment multiplier of 1.94.

There would be an additional contribution to the Tamworth Regional Council economy through consumption effects as correspondingly more wages and salaries are spent in the local economy. It is estimated that this would result in a further increase in Output of \$16.91m.

The combination of all direct, industrial and consumption effects would result in a total estimated rise in Output of \$103.03m in the Tamworth Regional Council economy, representing a Type 2 Output multiplier of 2.32.

These impacts would not be limited to the local economy. Industrial and consumption effects would flow outside the region to the wider Australian economy to the tune of \$24.22m in Output.

The combined effect of economic multipliers in the Tamworth Region and the wider Australian economy is estimated to be \$127.24m added to Australia's Output.

Impact on Local Employment (jobs)

The direct addition of 100 jobs in the Food Product Manufacturing sector of the Tamworth Regional Council economy would lead to a further increase in indirect demand for intermediate goods and services across related industry sectors. These indirect industrial impacts (Type 1) are estimated to result in an additional 220 jobs, representing a Type 1 Employment multiplier of 3.20.

This addition of jobs in the local economy would lead to a corresponding increase in wages and salaries, a proportion of which would be spent on local goods and services, creating a potential further 72 jobs through consumption impacts.

The combination of all direct, industrial and consumption effects would result in a total estimated increase of 392 jobs located in the Tamworth Region. This represents a Type 2 Employment multiplier of 3.92.

Employment impacts would not be limited to the local economy. Industrial and consumption effects would flow outside the region to the wider Australian economy creating a further 88 jobs.

The combined effect of economic multipliers in the Tamworth Region and the wider Australian economy is estimated to be an addition of 480 jobs.

Impact on value added

The direct addition of 100 jobs in the Food Product Manufacturing sector of the Tamworth Regional Council economy would lead to a corresponding direct increase in value added of \$9.76m. A further \$15.69m in value added would be generated from related intermediate industries. These indirect industrial impacts represent a Type 1 value added multiplier of 2.61.

There would be an additional contribution to the Tamworth Regional economy through consumption effects as correspondingly more wages and salaries are spent in the local economy. It is estimated that this would result in a further increase in value added of \$6.96m.

The combination of all direct, industrial and consumption effects would result in an estimated addition in value added of \$32.42m in the Tamworth Regional economy, representing a Type 2 value added multiplier of 3.32.

These impacts would not be limited to the local economy. Industrial and consumption effects would flow outside the region to the wider Australian economy to the tune of \$10.25m in value added.

The combined effect of economic multipliers in Tamworth Region and the wider Australian economy is estimated to be \$42.67m added to Australia's value added.

Impact on GRP

Value added by industry represents the industry component of Gross Regional Product (GRP). The impact on Tamworth Regional Council's GRP as a result of this change to the economy is directly equivalent to the change in value added outlined in the section above.

In summary, GRP in the Tamworth Region is estimated to increase by \$32.42m.

The effect on the Australian economy (including the Tamworth Region) is estimated to be a growth in Gross Domestic Product (GDP) of \$42.67m.

Source: National Institute of Economic and Industry Research (NIEIR) ©2021. Compiled and presented in economy.id by .id (informed decisions).

(a) Policy Implications

The planning proposal is a direct outcome of the policy position of Council developed via the *Blueprint 100* process.

(b) Financial Implications

The cost of processing the planning proposal will be accommodated by the existing integrated planning budget.

(c) Legal Implications

Amendments to the *Tamworth Regional Local Environmental Plan 2010* will alter the planning provisions for the subject lands.

(d) Community Consultation

Community consultation requirements will be specified by the Department of Planning Industry and Environment Gateway Determination.

(e) Delivery Program Objective/Strategy

A Prosperous Region – P11 Support and facilitate economic development and employment opportunities.

8 INFRASTRUCTURE AND SERVICES

8.1 EXPRESSION OF INTEREST – FUTURE USE OF THE RANCH 226 OXLEY LANE WESTDALE

DIRECTORATE: WATER AND WASTE

AUTHOR: Bruce Logan, Director Water and Waste

1 ANNEXURES ATTACHED

RECOMMENDATION

That in relation to the report “Expression of Interest – Future Use of The Ranch 226 Oxley Lane Westdale”, Council:

- (i) undertake an Expression of Interest process for the future use of the property including terms detailed in the body of the report; and*
 - (ii) request the Director Water and Waste submit a report to Council with the results of the Expression of Interest Process.*
-

SUMMARY

The purpose of this report is to seek direction from Council regarding the future use of the property known as The Ranch.

COMMENTARY

Council acquired the property “The Ranch” at 226 Oxley Lane Westdale as part of the establishment of the Tamworth Effluent Reuse Farm facility. A plan of the property is **ATTACHED**, refer **ANNEXURE 1**.

Over the past few years, the property has been leased to the operator of the Tamworth Effluent Reuse Farm and was used to fatten lambs. The lease on the property has now ended.

There are a number of options for Council in the long term, including disposing of the property, but at this moment it is considered there are advantages to maintaining ownership of the property to allow Council more flexibility to consider initiatives which may have The Ranch at the centre of the initiative, or include part of The Ranch. These include:

- proximity to the airport and/or the industrial area for possible inclusion as part of a green energy enterprise; and
- proximity to the Westdale Wastewater Treatment Plant could see part of the Ranch used in advanced effluent treatment processes.

Whilst these initiatives may not come to fruition, and even if they do, will be some years from actual commissioning, if Council agreed that maintaining ownership of the property was preferred at this time, then attention turns to what to do with the property in the short term. Obviously, Council incurs costs through the ownership and maintenance of the property which could be offset through a short-term lease, licence, agistment or other agreement. If Council was of a mind to pursue any of these options for the property then a public Expression of Interest (EOI) process is appropriate with the EOI documents including the following terms:

- any agreement would be for a 12-month term, with the agreement including a 12-month option – a shorter term means Council is only bound for a short period of time;
- in the event the lessee sought to exercise the option, Council would be under no obligation to agree to the request;
- the agreement would allow Council, or its contractors access to the site to undertake investigations and construction as required, where reasonable notice has been given of Council’s intention to enter and/or undertake work and provided the extent of the work does not have a significant adverse effect on the use of the site;
- there would be limited constraints placed on the potential use of the property, although the relatively short term of the agreement will limit some opportunities for use that requires significant investment of time and/or money; and
- in the event that an agistment arrangement was to be offered, it would be on the standard terms and conditions of such agreements with an amount per head of stock to be offered by the proponent or some other fixed payment.

It is recommended that Council proceed with a public process for determining the level of interest generally, and that following that process, a further report be submitted to Council for determination of the way forward.

(a) Policy Implications

Nil

(b) Financial Implications

The Expression of Interest process would require proponents to advise Council of the amount they would be prepared to pay for the opportunity. This would be a consideration in the final recommendation to Council of a preferred proponent.

(c) Legal Implications

A formal agreement will be signed between Council and the successful applicant, should Council ultimately agree to lease the property.

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

A Region for the Future – F11 Sound asset management planning.

8.2 EXPRESSION OF INTEREST – SHORT TERM USE OF 284 GIDLEY APPLEBY LANE

DIRECTORATE: WATER AND WASTE

AUTHOR: Bruce Logan, Director Water and Waste

1 ANNEXURES ATTACHED

RECOMMENDATION

That in relation to the report “Expression of Interest – Short Term Use of 284 Gidley Appleby Lane”, Council:

- (i) undertake an Expression of Interest process for the short-term use of the property including terms detailed in the body of the report; and*
- (ii) request the Director Water and Waste submit a report to Council with the results of the Expression of Interest Process.*

SUMMARY

The purpose of this report is to seek direction from Council regarding the short-term use of the property known as 284 Gidley Appleby Lane.

COMMENTARY

In approximately April 2019, Council purchased the property at 284 Gidley Appleby Lane as the future site of Council’s Organic Recycling Facility (ORF). A plan of the site is **ATTACHED**, refer **ANNEXURE 1**. As Council would be aware, there have been some delays in the construction of the facility, which will mean construction on the site will not commence for at least 6 months.

Since the purchase of the property, Council has been approached by interested parties, including neighbours to the site, asking whether Council may be interested in allowing the use of the property by a third party prior to the commencement of any construction of the ORF. These inquiries have been mainly in relation to allowing agistment of stock on the property, which may be preferable to entering into a lease agreement.

Obviously, Council continues to incur holding costs for the property during its ownership which could be at least partially offset by allowing the use of the property by an interested party for a fee while the construction process of the ORF is awaiting commencement.

If Council was of a mind to pursue options for the short-term use of the property then a public Expression of Interest (EOI) process would be appropriate with the EOI documents including the following terms:

- any agreement would be for a 6-month term, with the agreement including a 6-month option. The short term means Council is only bound for a short period of time and allow the construction of the ORF to take precedence over any use agreement;
- in the event the option was exercised, Council would be under no obligation to agree to the request;
- the agreement would allow Council, or its contractors access to the site to undertake investigations and construction as required, where reasonable notice has been given of Council's intention to enter and/or undertake work and provided the extent of the work does not have a significant adverse effect on the use of the site;
- there would be limited constraints placed on potential uses of the property, although the relatively short term of the lease will limit some opportunities for use that require significant investment of time and/or money; and
- in the event that an agistment arrangement was to be offered, it would be on the standard terms and conditions of such agreements with an amount per head of stock or fixed payment to be offered by the proponent.

It is recommended that Council proceed with a public process for determining the level of interest generally, and that following that process, a further report be submitted to Council for determination of the way forward.

(a) Policy Implications

Nil

(b) Financial Implications

The Expression of Interest process would require proponents to advise Council of the amount they would be prepared to pay for the opportunity. This would be a consideration in the final recommendation to Council of a preferred proponent.

(c) Legal Implications

A formal agreement will be signed between Council and the successful applicant, should Council ultimately agree to the use of the property for a specific purpose.

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

A Region for the Future – F11 Sound asset management planning.

9 GOVERNANCE, STRATEGY AND FINANCE

9.1 ORDINARY COUNCIL MEETING FOR SEPTEMBER AND DECEMBER 2021

DIRECTORATE: OFFICE OF THE GENERAL MANAGER
AUTHOR: Jason Collins, Executive Manager - Strategy and Performance

RECOMMENDATION

That in relation to the report “Ordinary Council Meeting for September and December 2021”, Council:

- (i) schedule an Ordinary Council Meeting for Tuesday 14 September 2021; and*
- (ii) cancel the Ordinary Council Meeting scheduled on Tuesday 14 December 2021.*

SUMMARY

The purpose of this report is to advise Council that due to the postponement of the NSW Local Government Elections to 4 December 2021, an Ordinary Council Meeting should now be held on the 2nd Tuesday in September and the Meeting scheduled for December be cancelled.

COMMENTARY

The Minister for Local Government has postponed the NSW Local Government Elections from 4 September 2021, to 4 December 2021. An Ordinary Council Meeting was not scheduled for 14 September 2021, due the Election, however this Meeting can now be reinstated with the Election not being held.

With the NSW Local Government Elections being held on the 4 December 2021, the Ordinary Council Meeting scheduled for 14 December 2021 will not be able to be held due to the poll not expected to be declared until 23 December 2021.

(a) Policy Implications

Council may, by resolution, vary the time, date and place of Ordinary Meetings should extenuating circumstances exist which would prevent the Ordinary Meetings of the Council being held.

(b) Financial Implications

Nil

(c) Legal Implications

Section 365 of the *Local Government Act 1993*, requires Council to meet at least 10 times each year, each time in a different month.

Section 367 (1) of the *Local Government Act 1993*, requires the General Manager to send to each councillor, at least three days before each Meeting of Council, a notice specifying the time and place at which and the date on which the Meeting is to be held and the business proposed to be transacted at the Meeting.

(d) Community Consultation

The change of Meeting dates will be changed on Council's Website.

(e) Delivery Program Objective/Strategy

A Region of Progressive Leadership – L21 Transparency and accountability of government.

9.2 AUDIT, RISK AND IMPROVEMENT COMMITTEE

DIRECTORATE: OFFICE OF THE GENERAL MANAGER

AUTHOR: Karen Litchfield, Internal Auditor

1 ENCLOSURES ENCLOSED

RECOMMENDATION

That in relation to the report “Audit, Risk and Improvement Committee”, Council receive and note the Minutes of the meeting held on 20 July 2021.

SUMMARY

The purpose of this report is to present to Council the Minutes of the Audit, Risk and Improvement Committee meeting held Tuesday 20 July 2021.

COMMENTARY

The quarterly meeting of the Audit, Risk and Improvement Committee was held on Tuesday 20 July 2021. The Minutes of the meeting are **ENCLOSED**, refer **ENCLOSURE 1**.

(a) Policy Implications

Nil

(b) Financial Implications

Costs associated with the Internal Audit function are included in the 2020/2021 Annual Operational Plan.

(c) Legal Implications

Nil

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

A Region of Progressive Leadership – L21 Transparency and accountability of government.

10 COMMUNITY SERVICES

Nil

11 REPORTS TO BE CONSIDERED IN CLOSED COUNCIL

Nil
