

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, Lands Building, Nemingha Room, 25-27 Fitzroy Street, Tamworth**, commencing at **6.30pm**.

ORDINARY COUNCIL AGENDA

10 DECEMBER 2024

**PAUL BENNETT
GENERAL MANAGER**

Order of Business

ITEM	SUBJECT	PAGE NO
1	APOLOGIES AND LEAVE OF ABSENCE	5
2	COMMUNITY CONSULTATION	5
3	MINUTES OF PREVIOUS MEETING SUBMITTED FOR APPROVAL	5
4	DISCLOSURE OF INTEREST	5
5	MAYORAL MINUTE	5
6	NOTICE OF MOTION	5
6.1	RECISSION MOTION - ITEM 9.1 COUNCIL MEETING 25 JUNE 2024 SUNDRY DEBTOR WRITE OFF FOR 2023/2024	5
6.2	QUESTION WITH NOTICE	7
6.3	ENTRY TO TAMWORTH REGIONAL COUNCIL POOLS.....	13
6.4	CEASING THE PROVISION OF FREE ALCOHOL TO COUNCILLORS DURING AND AFTER OFFICIAL EVENTS	14
6.5	ADOPT A POLICY OF ACCEPTING RESIDENTS PETITIONS	16
	5 ANNEXURES ATTACHED	
	OPEN COUNCIL REPORTS	17
7	ENVIRONMENT AND PLANNING	17
7.1	TAMWORTH REGIONAL LOCAL ENVIRONMENTAL PLAN 2010 - AMENDMENT TO THE DWELLING DENSITY MAP FOR THE ARCADIA ESTATE	17
	2 ANNEXURES ATTACHED	
7.2	DA2025-0011 - CHILDCARE CENTRE (122 PLACES) WITH ASSOCIATED CARPARKING, LANDSCAPING, BUSINESS IDENTIFICATION SIGNAGE AND LOT CONSOLIDATION (THREE LOTS INTO ONE LOT)	19
	4 ANNEXURES ATTACHED	
	1 CONFIDENTIAL ENCLOSURES ENCLOSED	
8	INFRASTRUCTURE AND SERVICES	52
8.1	FUTURE USE OF 'THE RANCH' - 226 OXLEY LANE WESTDALE	52
8.2	TAMWORTH REGIONAL LOCAL TRAFFIC COMMITTEE MEETING - 6 NOVEMBER 2024.	54
	4 ANNEXURES ATTACHED	
	1 ENCLOSURES ENCLOSED	
9	GOVERNANCE, STRATEGY AND FINANCE	60
9.1	SCHEDULE FOR COUNCIL MEETINGS FOR 2025	60
9.2	2025 AUSTRALIA DAY EVENTS	61
9.3	COUNCIL INVESTMENTS NOVEMBER 2024	63
	1 ANNEXURES ATTACHED	
9.4	ANNUAL OPERATIONAL PLAN 2024/2025 BUDGET VARIATION REPORT - NOVEMBER 2024	64

1 ANNEXURES ATTACHED

10	COMMUNITY SERVICES	66
11	REPORTS TO BE CONSIDERED IN CLOSED COUNCIL	68
	PROPOSED LEASE OF PART INTERNATIONAL FLIGHT TRAINING TAMWORTH (IFTT) FACILITY - TAMWORTH REGIONAL AIRPORT.....	68
	PROPOSED LEASE OF BAR AREA AT THE INTERNATIONAL FLIGHT TRAINING TAMWORTH (IFTT) FACILITY.....	68
	TENDER T036-2025 PRINTING AND DISTRIBUTION OF RATES, WATER AND ANCILLARY NOTICES, AND ASSOCIATED PAYMENT GATEWAY FACILITY SERVICES.....	68
	TENDER T050/2025 - SUPPLY AND DELIVERY OF INDUSTRIAL HARDWARE	69
	TENDER T128-2024 - PERIOD CONSULTANCY PROVISION OF WATER AND SEWERAGE CONSULTING SERVICES	70
	Q040-2025 - DURBIN STREET BRIDGE REPLACEMENT NUNDLE.....	70
	T029-2025 - DESIGN AND CONSTRUCTION OF RIVERSIDE SHARED PATH LIGHTING	73

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, 26 November 2024, 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**

Pecuniary Interest

Non Pecuniary Conflict of Interest

Political Donations

5 **MAYORAL MINUTE**

Nil

6 **NOTICE OF MOTION**

6.1 NOTICE OF MOTION – CR MARK RODDA - RECISSION MOTION - ITEM 9.1 COUNCIL MEETING 25 JUNE 2024 SUNDRY DEBTOR WRITE OFF FOR 2023/2024

Reference: Item 9.1 to Ordinary Council 25 June 2024 - Minute No 145/24

MOTION

That Council:

- (i) *reverse the decision made on 25 June 2024 to write off the debt of \$649,415.64 investigate alternative means of retrieving the funds; and*
- (ii) *advise measures introduced to avoid similar outcomes in the future.*

Notice is given that I intend to move the above Motion at the Meeting of the Council to be held on 10 December 2024.

SUPPORTING INFORMATION

Rescind decision of Item 9.1 – Sundry Debtor Write Off for 2023/2024, Meeting Tuesday 25-06-2024

1. Council notes that a significant debtor and enterprise with a parent company that continues to trade within the boundaries of the Commonwealth of Australia has declined to pay debts to Council totalling \$649,415.64;
2. Note the legal grounds to recover the debt have been exhausted;

3. The debtor's details have remained confidential, however in the interests of transparency, openness and accountability to our ratepayers, the business should be named publicly;
4. A public explanation should be provided about the nature of the debt and why it was permitted to blow out to the figure of \$649,415.64 and measures introduced to avoid similar outcomes into the future;
5. Council should reverse its decision of 25/06/2024 and continue to explore retrieval options via other means including "naming and shaming" the company such as writing to the Directors of the parent company that continues to trade as well as seeking assistance from Commonwealth and/or State Members/Ministers of Parliament;
6. Note that actions to recover the debts of fellow residents may often result in added legal fees, garnishee income and possible sale of properties to recover debts;
7. Note that fellow residents remain frustrated that a large corporation could be "let off the hook" while they are required to pay their rate burdens in full which is considered inequitable;
8. Move to rescind the decision of Tuesday 25 June 2024 and investigate alternative means of retrieving these significant funds;
9. Note that the original recommendation stipulated that the decision of Council didn't stop it from seeking to retrieve the funds at a later date.

Cr Mark Rodda

4 December 2024

GENERAL MANAGERS RESPONSE

The amount of \$654,307.54 relates to more than one debtor, to continue to infer that it relates to only one company is inaccurate.

Virgin Australia was the most significant debtor and owed Council the sum of \$354,931.76 predominantly for landing and security fees. Virgin Australia is a separate legal entity to any overseas Virgin operations. The company went into voluntary administration and receivers appointed towards the end of 2020. The receivers liquidated all of the company's assets and distributed the proceeds amongst its creditors. Council along with 6,084 other claimants had its debt recognised and like the other claimants received a final distribution of 9 cents in the dollar. The legal process and liquidation of assets took over 3 years. The debt was not written off until all legal options of recovery had been pursued.

Virgin Australia was legally structured in such a way that there is no legal recourse to any other airline industry that might just have the word "virgin" in their name, this being one of the key benefits of establishing a corporation for the operations of a business is the Limited Liability. This means that shareholders (the owners) are protected from any liability arising from the operations of the company. As shareholders do not operate the business they cannot be held responsible for the actions of the business and therefore under Australian Law, Council cannot commence any action to recover the debt.

The issue arises when Council is an "unsecured creditor". Changes have been implemented to facilitate the inclusion of bank guarantee's into material contractual arrangements such as leases to ensure that Council has some security with regards to payment of outstanding debts. When rates are raised, the amount is raised and secured against the property under the Local Government Act. Council works with all of its debtors (whether rates or business) to ensure that they are provided every opportunity to realistically pay or trade their way out of financial hardship.

6.2 NOTICE OF MOTION – CR MARK RODDA - QUESTION WITH NOTICE

MOTION

That the Questions with Notice be received and noted.

Notice is given that I have submitted the following Questions with Notice at the Meeting of the Council to be held on 10 December 2024.

SUPPORTING INFORMATION

Tamworth Global Gateway Park (TGGP)

1. Have all of the funds received from the New South Wales State Government or Commonwealth Government been expended on the TGGP estate?
2. If the funds have not been expended, why not/when can they be expected to be spent?
3. The spreadsheet annexed to the meeting of 26 November 2024 showed the total expenditure of \$36,654,799.56 (including acquisition costs of \$16,006,986.81) and sales of \$9,783,910.00, what are the likely projected sales for the remainder of the estate and will it glean enough in sales to justify the investment by TRC ratepayers and NSW/Commonwealth taxpayers? Will there be sufficient funds to pay the \$15,000,000.00 bill toward the Tamworth Aquatic Centre?
4. I have assumed that the entry for “Selling Costs” are commissions paid to the real estate agents. I note that the current sales agents for the TGGP appeared to have gleaned \$729,064.69 in commissions, based on the gross sales of \$9,783,910.00, it appears that they have been paid 7.45%. Is this figure quite high for unimproved vacant industrial land?

Tamworth Global Gateway Park			
Income and Expenses 30/06/2024			
Phase 1			
		Stage 1 Actuals	Stage 1 Budget
Sales		9,783,910.00	28,940,000.00
Acquisition Costs	*	1,978,099.18	1,978,099.18
Holding Costs	*	34,948.70	48,971.92
Debt Service Internal Loan	*	401,506.77	603,062.22
Debt Service External Loan		613,263.29	
Master Plan			
Goddard La Development Costs		6,995,021.73	6,916,973.00
Business Park Initial		3,233,476.96	3,320,697.00
Selling Costs		729,064.69	2,894,000.00
Intermodal Access		2,660,301.72	3,583,980.00
Contingency		0.00	198,350.00
Marketing		25,761.39	35,000.00
Total Expenditure		16,671,444.43	19,579,133.32
Profit/(Loss)		-6,887,534.43	9,360,866.68
* Costs allocated using land area			
Tamworth Global Gateway Park			
Income and Expenses as at 30/06/2024			
Entire Precinct			
Sales		9,783,910.00	
Total Sales		9,783,910.00	
Acquisition Costs		16,006,986.81	
Holding Costs		282,756.45	
Debt Service Internal Loan		3,248,436.68	
Debt Service External Loan		613,263.29	
Master Plan		276,034.08	
Stage 1		13,617,865.10	
Marketing		25,761.39	
Landscaping		403,489.29	
Trunk Drainage Channels		118,714.00	
Trunk Stormwater Main		1,192,175.00	
Cottage Demolition		32,297.93	
Precinct Management		389,936.74	
Precinct Ext Auth Svces & St Lighting		74,029.07	
Phase 2 Design Plans		373,053.73	
Total Expenditure		36,654,799.56	

Expulsion of Residents from the Public Gallery

1. Under what circumstances can the chair expel the entire public gallery especially if only one(1) citizen committed an alleged act of disorder?
2. Does applause (clapping) constitute an act of disorder?
3. Section 15 of the Tamworth Regional Council, Code of Meeting Practice (based on Section 10 of the LG Act 1993) stipulates that for acts of disorder by a member of the public that person(s) may be expelled, unless council votes to go into closed council how can the chair expel the entire public gallery if they are not at fault of causing an act of disorder such as applauding (clapping) a decision of council?
4. Section 10 of the Local Government Act 1993 appears to be the legislative framework for Section 15 of the Tamworth Regional Council Code Of Meeting Practice, what regulations exist that may permit the chair to expel all persons that are not engaged in an act of disorder?
5. Has the Code of Meeting Practice been misinterpreted?

Code of Meeting Practice

How Disorder At A Meeting May Be Dealt With

- 15.13 *If disorder occurs at a Meeting of Council, the Chairperson may adjourn the Meeting for a period of not more than 15 minutes and leave the Chair. Council, on reassembling, must, on a question put from the Chairperson, decide without debate whether the business is to be proceeded with or not. This clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of Councillors.*

Expulsion From Meetings

- 15.14 *All Chairpersons of Meetings of Council and Committees of Council are authorised under this Code to expel any person other than a Councillor, from a Council or Committee Meeting, for the purposes of section 10(2)(b) of the Act. Councillors may only be expelled by resolution of Council or the Committee of Council.*
- 15.15 *Clause 15.14, does not limit the ability of Council or a Committee of Council to resolve to expel a person, including a Councillor, from a Council or Committee Meeting, under section 10(2)(a) of the Act.*
- 15.16 *A Councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a Meeting of Council for having failed to comply with a requirement under clause 15.12. The expulsion of a Councillor from the Meeting for that reason does not prevent any other action from being taken against the Councillor for the act of disorder concerned.*
- 15.17 *A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a Meeting of Council for engaging in or having engaged in disorderly conduct at the Meeting.*
- 15.18 *Where a Councillor or a member of the public is expelled from a Meeting, the expulsion and the name of the person expelled, if known, are to be recorded in the minutes of the Meeting.*
- 15.19 *If a Councillor or a member of the public fails to leave the place where a Meeting of Council is being held immediately after they have been expelled, a police officer, or any person authorised for the purpose by Council or person presiding, may, by using only such force as is necessary, remove the Councillor or member of the*

LOCAL GOVERNMENT ACT 1993 - SECT 10 Who is entitled to attend meetings?

- (1) Except as provided by this Part--*
- (a) everyone is entitled to attend a meeting of the council and those of its committees of which all the members are councillors, and*
- (b) a council must ensure that all meetings of the council and of such committees are open to the public.*
- (2) However, a person (whether a councillor or another person) is not entitled to be present at a meeting of the council or of such a committee if expelled from the meeting--*
- (a) by a resolution of the meeting, or*
- (b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.*
- (3) A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by, the regulations.*

Amendments to conditions of an approved TRC Development Application

1. Can a condition of an approved development application determined by Tamworth Regional Council be amended under the provisions of Section 4.57 of the Environmental Planning and Assessment Act, 1979 as shown below?

2. Why would it be “illegal” for Council to amend DA2024-0249 as the consent authority?

4.57 Revocation or modification of development consent (cf previous s 96A)

(1) If at any time it appears to—

(a) the Planning Secretary, having regard to the provisions of any proposed State environmental planning policy, or

(b) a council (being the consent authority in relation to the development application referred to in this subsection), having regard to the provisions of any proposed local environmental plan,

that any development for which consent under this Division is in force in relation to a development application should not be carried out or completed, or should not be carried out or completed except with modifications, the Planning Secretary or council may, by instrument in writing, revoke or modify that consent.

(2) This section applies to complying development for which a complying development certificate has been issued in the same way as it applies to development for which development consent has been granted and so applies to enable a council to revoke or modify a complying development certificate whether the certificate was issued by the council or by a registered certifier.

(3) Before revoking or modifying the consent, the Planning Secretary or council must--

(a) by notice in writing inform, in accordance with the regulations--

(i) each person who in the Planning Secretary's or council's opinion will be adversely affected by the revocation or modification of the consent, and

(ii) such persons as may be prescribed by the regulations,

of the intention to revoke or modify the consent, and

(b) afford each such person the opportunity of appearing before the Planning Secretary or council, or a person appointed by the Planning Secretary or council, to show cause why the revocation or modification should not be effected.

(4) The revocation or modification of a development consent takes effect, subject to this section, from the date on which the instrument referred to in subsection (1) is served on the owner of the land to which the consent applies.

(7) If a development consent is revoked or modified under this section, a person aggrieved by the revocation or modification is entitled to recover from--

(a) the Government of New South Wales--if the Planning Secretary is responsible for the issue of the instrument of revocation or modification, or

(b) the council--if the council is responsible for the issue of that instrument, compensation for expenditure incurred pursuant to the consent during the period between the date on which the consent becomes effective and the date of service of the notice under subsection (3) which expenditure is rendered abortive by the revocation or modification of that consent.

(8) The Planning Secretary or council must, on or as soon as practicable after the date on which the instrument referred to in subsection (1) is served on the owner of the land referred to in subsection (4), cause a copy of the instrument to be sent to each person who is, in the Planning Secretary's or council's opinion, likely to be disadvantaged by the revocation or modification of the consent.

(9) This section does not apply to or in respect of a consent granted by the Court or by the Minister.

Cr Mark Rodda

4 December 2024

GENERAL MANAGERS RESPONSE

Tamworth Global Gateway Park (TGGP)

1. Yes all of the grant funds received for the TGGP have been expended on the TGGP.
2. All funds have been spent.
3. The land development that is the TGGP is a long term project. Should Council maintain its current course of land development it will take many years to reach completion, initial estimates being 2050 before all lots are sub divided, developed and sold. Sales income for the indeterminate future will need to be utilised to repay internal and external loans and ensure that there is a sufficient buffer in Reserves to meet loan commitments as they fall due. It is difficult to predict how long funds will need to be redirected to create a loan repayment buffer as the timing of land sales cannot be forecast. That aside, sales for the current financial year are **estimated** to realise \$6,075,394, whilst total sales for the entire TGGP site are estimated to reach and possibly exceed \$200 million. Obviously the further out predictions are being made the less reliable they become and for this reason Council approval is sought before any future land parcels are released for development and sale.

Below is commentary with regards to land sizes and indicative unit selling rates for the next stages to be released being lots 5 & 7.

Stage 5:

- The saleable land in Stage 5 is 95,238m².
- The average lot size in Stage 5 is 4,141m².
- We expect to be able to sell most lots in Stage 5 at approximately \$125/m² (this is based of the current market and similar sized lots sold in Stage 3).
- Our sales agent has noted stronger demand for the 4,000m² – 6,000m² lots in Stage 5 as opposed to the larger sized lots in other stages of the TGGP. Most of our land sale enquiries are in relation to this lot size.
- Stage 5 is zoned E3 – Productivity Support.

Stage 7:

- The saleable land in Stage 7 is 200,554m².

- Stage 7 has a wider variety of lot sizes. The average lot size is 14,325m².
- The majority of the larger lots are approximately 17,000m² – 18,000m² in size.
- The majority of the smaller lots are approximately 7,500m² – 10,000m² in size.
- We expect to be able to sell the larger lots in Stage 7 at \$90/m² – \$110/m². We expect to be able to sell the smaller lots for \$110/m² - \$120/m².
- Stage 7 is zoned E5 – Heavy Industrial.
- Given the current market, we expect there to be less demand for the larger lots, as the similar sized lots in Stage 2 remain unsold and are currently on the market. As the activities of the Intermodal increase, we expect these lots to become more desirable.

It anticipated that land sales will **not** fund anything in the short term other than loan repayments and/or future infrastructure required to release new lots for sale. Ultimately the project will make a positive return to Council, this cannot be forecast with any accuracy due to the inability to predict the timing of land sales. It should also be remembered that the development of the site was considered advantageous for the economic development of the region especially with the inclusion of a rail intermodal.

- Legal costs and
- Agents commission

As at June 30, 2024 total agents commission is \$253,377 which equates to 2.59% of sales income as at June 30, 2024 of \$9,783,910.

4. Selling costs up to June 30 are made up of:

- Legal costs and
- Agents commission

As at June 30 2024, total agents commission is \$253,377 which equates to 2.59% of sales income as at June 30 2024, of \$9,783,910.

Expulsion of Residents from the Public Gallery

1. The Office of Local Government in the recent discussion paper stated that “A Council Chamber is a chamber of democracy, and the Mayor as figurehead represents the authority of that Council”. The Chair will determine what disorder or disorderly conduct is under the Local Government Act 1993 Section 10 (3) and the Local Government Regulation 2021 Section 233 (3). At the Council Meeting on 26 November 2024, the Mayor clearly defined to the gallery what disorder would like at the Meeting and that the whole gallery would be expelled if this occurred.
2. Yes clapping would constitute an act of disorder. The Code of Meeting Practice principles describe orderly as behaving in a way that contributes to the orderly conduct of the Meeting. Talking, clapping and other acts from the gallery that detracts from the business of the Meeting is considered disorderly.
3. As the person responsible for the disorder could not be identified, the entire gallery was expelled as per the Mayor’s warning at the start of the Meeting and the 2nd warning issued during the Meeting. Members of the public could still witness the Meeting through the live stream.
4. Section 233 (3) permit the Chair to expel members of the public for disorderly conduct. On the incident after the 2nd warning it was evident to the Mayor that the gallery would continue to disrupt the Meeting and the whole gallery was expelled.
5. No the Code of Meeting Practice has not been misinterpreted.

Amendments to conditions of an approved TRC Development Application

1. No, while there is no specific prohibition in the Act, there is also no power for Council to unilaterally amend or modify or change a consent which has value. If Council could do that, it could alter any DA it wanted at any time and thereby affect the value of the consent and the value of the land to which it attaches, which would expose Council to liability for that loss and damage. For a consent to be modified, there must be an application to do so, which can then be considered with regard to s 4.55(3) which talks about determining an application for a modification, and having regard to the 4.15 factors when making such a determination. In relation to section 4.57 this power can only be used where there is a proposed LEP or SEPP which may affect the development – if there is no such instrument, then the power cannot be used.
 2. As this matter is now before the Court, it would be inappropriate for comments to be made that may relate to that matter. Staff can arrange to brief Councillors once there is any further information to provide.
-

6.3 NOTICE OF MOTION – CR JEFF BUDD - ENTRY TO TAMWORTH REGIONAL COUNCIL POOLS

MOTION

That Council:

- (i) support the trial of an introduction of free pool access across Council's pools at various locations during the summer, with the days to be determined by Council staff in accordance with operational requirements; and**
- (ii) request a report at the end of the trial to a future Council Meeting.**

Notice is given that I intend to move the above Motion at the Meeting of the Council to be held on 10 December 2024.

SUPPORTING INFORMATION

Tamworth Regional Council manages and operates six Public Swimming Pools throughout the Tamworth Regional Council Area – Barraba, Manilla, Nundle, Kootingal, South & South West War Memorial Pool and Tamworth Olympic Pool.

My experience has been that access to and cost of access to these facilities is a big issue within our region, particularly for our towns and villages.

Conversations with staff managing these facilities has been positive and they are enthusiastic about promoting and increasing usage at these wonderful community resources.

The perfect opportunity to trial free access during the summer months along with other initiatives that staff provide (School Holidays) is fast approaching. Conversations have been had regarding suitable dates that can be operationally catered for and implemented during the period. It is expected four dates in 5 of 6 pools is achievable and part of the trial. Only one of the Tamworth Pools would offer the initiative at any one time.

Staff believe that specifically targeting Families and Youth opportunities during the period is indeed achievable, albeit a potential risk in terms of antisocial behaviour with large groups of youth. It is possible however in preparation to staff accordingly.

Whilst there is a loss of income from the pool attendances it is expected that the increase in the Kiosk's at the pools would potentially make the proposal in this instance cost neutral.

A massive influx of youth numbers may see additional staff being required based on adequate supervision and safety should the need arise. The cost of staff would be minimal by comparison to social capital benefits and community engagement and could be supplemented from the general fund if required.

I commend the motion to you in the interests of growing community participation, Social Capital and giving back to our Families and youth.

Cr Jeff Budd

2 December 2024

6.4 NOTICE OF MOTION – CR STEPHEN MEARS - CEASING THE PROVISION OF FREE ALCOHOL TO COUNCILLORS DURING AND AFTER OFFICIAL EVENTS

MOTION

That Council:

- (i) cease the practice of providing free alcohol to Councillors and staff during and after official Council events, meetings, and gatherings, effective immediately. This decision reflects a commitment to fiscal responsibility, transparency, and the preservation of public trust in local government;**
- (ii) request a report detailing the costs incurred by the Council on alcoholic beverages during the 2022–2023, 2023–2024 and current financial year to date; and**
- (iii) acknowledge this does not apply to staff Christmas or Holiday Season Party.**

Notice is given that I intend to move the above Motion at the Meeting of the Council to be held on 10 December 2024.

SUPPORTING INFORMATION

Rationale:

1. Public funds are not used for personal consumption. Financial Responsibility: The provision of free alcohol at official events and post-event gatherings represents an unnecessary expenditure of public funds. These resources would be better allocated to essential community services and programs that directly benefit the public.
2. Public Perception: Providing free alcohol at council meetings or during post-official events could be perceived by the public as inappropriate, contributing to a view of excessive spending. It is crucial that Councillors lead by example, demonstrating fiscal prudence and accountability in their actions.
3. Individual Responsibility: While this motion does not intend to initiate a prohibition of Councillors consuming alcohol at the completion of their official business, should they choose to do so they should bare the cost themselves, particularly at post-official events. This ensures that public funds are not spent on personal consumption, thereby maintaining the integrity of Council expenditures.
4. Professionalism and Transparency: Council-related events—both official and unofficial—should be conducted with a high level of professionalism. Ceasing the provision of free alcohol ensures that Council activities remain focused on the

business of governance and do not detract from the public's expectations of responsible leadership.

5. Legal and Ethical Considerations: Discontinuing the provision of free alcohol mitigates potential liabilities or ethical concerns associated with alcohol consumption during Council business, reducing the risk of public scrutiny.
 6. Financial Transparency: To further ensure transparency and accountability, the Council should provide a report detailing the costs incurred on alcoholic beverages during the 2023–2024 and 2022–2023 financial years. This will help the public understand the financial impact of this practice and inform the Council's decision-making moving forward.
 7. Staff Holiday Exemption: It is recognised that staff Christmas or Holiday parties are a separate matter and are exempt from this motion. These events are distinct from official Council business and are typically organized as staff appreciation events, where the provision of alcohol may be appropriate in that context.
-

Conclusion:

I respectfully propose that the Council adopt this motion as a demonstration of our commitment to transparency, fiscal responsibility, and the preservation of public trust. Should Councillors wish to partake in alcohol after official functions, they should do so at their own expense, ensuring that

Cr Stephen Mears

4 December 2024

6.5 NOTICE OF MOTION – CR RYAN BROOKE - ADOPT A POLICY OF ACCEPTING RESIDENTS PETITIONS

5 ANNEXURES ATTACHED

MOTION

That Council:

- (i) develop a policy of accepting petitions presented by residents;*
- (ii) require that accepted petitions be presented to Council as an item of business at the next Council Meeting after being accepted to be received and noted; and*
- (iii) incorporate this Policy into the General Policy Register.*

Notice is given that I intend to move the above Motion at the Meeting of the Council to be held on 10 December 2024.

SUPPORTING INFORMATION

In an effort to further progress action on Focus Area 9 of Our Community Plan Blueprint 100 - Open and Collaborative Leadership, I would urge my fellow Councillors to resolve to adopt a policy of accepting resident petitions regarding issues relating to Council's responsibilities, and issues which affect the Tamworth Region or communities in the Tamworth Region, as long as Council is in a position to exercise some degree of influence.

Taking this course of action would equip residents with another tool of asking us to consider a decision or draw attention to a specific issue. Council, in turn, would be required to make some sort of response. This could include acknowledging and noting the petition, directing the General Manager to issue a response to the petition, or adopting a course of action as a result of the petition.

I would suggest Council require submitted petitions to have a minimum number of signatures before Council formally accepts them. This number can be further discussed during the development of the policy, but I would suggest 1,000. This would be high enough to show significant community concern or support for the subject of the petition, but would not be so high as to be unachievable for petitioners to accrue.

I have attached a copy of the petition policy from Lake Macquarie, Shoalhaven, Waverley, Sydney and Bayside Councils, refer **ANNEXURES 1, 2, 3, 4 and 5** respectively, as an example of what these policies could entail.

Petitions to Council are not specifically covered by legislation. However, the Local Government Act 1993 encourages effective participation of local communities in the affairs of local government. Council would be keeping with this principle by adopting a policy of accepting residents' petitions.

Cr Ryan Brooke

4 December 2024

OPEN COUNCIL REPORTS

7 ENVIRONMENT AND PLANNING

7.1 TAMWORTH REGIONAL LOCAL ENVIRONMENTAL PLAN 2010 - AMENDMENT TO THE DWELLING DENSITY MAP FOR THE ARCADIA ESTATE

DIRECTORATE: LIVEABLE COMMUNITIES
AUTHOR: Mitchell Gillogly, Team Leader – Strategic Planning
Reference: Item 7.1 to Ordinary Council 11 October 2022 - Minute No 292/22

2 ANNEXURES ATTACHED

RECOMMENDATION

That in relation to the report “Tamworth Regional Local Environmental Plan 2010 - Amendment to the Dwelling Density Map for the Arcadia Estate”, Council request the Department of Planning, Housing and Infrastructure to amend the Tamworth Regional Local Environmental Plan 2010 in accordance with Section 3.22 of the Environmental Planning and Assessment Act 1979, to adjust the Dwelling Density Map in response to a proposed minor boundary adjustment.

SUMMARY

The purpose of this report is to seek a resolution of Council to amend the Dwelling Density Map (DWD_004C) associated with the Arcadia Estate in response to a proposed minor boundary adjustment. The proposed minor boundary adjustment is in respect to the Arcadia East development (largely on the eastern side of Burkes Gully) and will result in a minor change to the boundaries of Lots 1 and 2 DP 1213875 to align with the future residential subdivision layout. The minor boundary adjustment will only affect the shape of the lots with the lot areas remaining unchanged.

A comparison of the existing lots and proposed lots is **ATTACHED**, refer to **ANNEXURE 1**.

As a result of the proposed minor boundary adjustment, the Dwelling Density Map contained in the *Tamworth Regional Local Environmental Plan 2010 (TRLEP 2010)* is required to be amended to reflect the new lot boundaries. The restricted dwelling yields associated with Lot 1 (maximum of 500 dwellings) and Lot 2 (maximum of 380 dwellings) DP 1213875 and minimum density requirement of ten (10) dwellings per hectare will remain unchanged and still apply to the new lot configuration.

This mapping update would be facilitated through a minor amendment to the *TRLEP 2010* under Section 3.22 of the *Environmental Planning and Assessment Act 1979* which specifically facilitates minor administrative changes to Local Environmental Plans.

COMMENTARY

Background

At its Ordinary Meeting of 11 October 2022, Council resolved to adopt the Arcadia Estate Planning Proposal which amended the *TRLEP 2010* in relation to the lands identified as Arcadia Estate, Tamworth, in order to achieve a land use planning outcome in alignment with Blueprint 100. An outcome of the amendment was the introduction of a minimum density requirement of ten (10) dwellings per hectare and a restricted dwelling yield for each lot. This is enforced by Clause 7.12 of the *TRLEP 2010* and the associated Dwelling Density Map.

In respect to Lots 1 and 2 DP 1213875, which form the Arcadia East development, the restricted dwelling yield for Lot 1 is a maximum of 500 dwellings and for Lot 2 a maximum of 380 dwellings.

Proposed Amendment to the TRLEP 2010

Council has been advised by the developer of Arcadia East that its intention is to undertake a minor boundary adjustment between Lots 1 and 2 DP 1213875. This is necessary as a result of the developer's current proposed subdivision layout which does not comply with the lot configuration shown on the Dwelling Density Map. The new boundaries will follow the internal roads of the proposed residential subdivision. The minor boundary adjustment will only affect the shape of the lots with the lot areas remaining unchanged. The boundary adjustment is of a minor nature and will be carried out as exempt development pursuant to section 2.75(b) of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

As a result of the proposed minor boundary adjustment, the Dwelling Density Map associated with the Arcadia Estate is required to be amended to reflect the new lot boundaries. Typically, Council is not required to amend the *TRLEP 2010* for boundary adjustments, however the Dwelling Density Map nominates restricted dwelling yields for Lot 1 (maximum of 500 dwellings) and Lot 2 (maximum of 380 dwellings). Therefore, any change in the lot boundaries needs to be reflected on the Dwelling Density Map. Importantly, it is not proposed to amend the nominated restricted dwelling yields, rather amend the map to be consistent with the lots created as a result of the minor boundary adjustment.

A comparison of the existing and proposed Dwelling Density Maps is **ATTACHED**, refer to **ANNEXURE 2**.

The Department of Planning, Housing and Infrastructure (DPHI) has confirmed that the mapping change to the Dwelling Density Map, associated with the minor boundary adjustment, is considered minor and an amendment under Section 3.22 of the *Environmental Planning and Assessment Act 1979* can be considered. The proposed amendment can be considered under this pathway as it will not have a significant impact on the environment or adjoining land. The Section 3.22 amendment will be carried out in accordance with the DPHI *Local Environmental Plan Making Guidelines 2023*. Prior to lodgement of a Section 3.22 amendment the new lots are required to be registered with NSW Land Registry Services.

Consequently, the amendment to the Dwelling Density Map is an administrative matter and is considered minor in nature and will not alter any land use planning controls associated with the lands.

(a) Policy Implications

There are no policy implications or changes required to Council's adopted Site Specific Arcadia Development Control Plan 2010 chapter.

(b) Financial Implications

Nil - The amendment to the Dwelling Density Map is an administrative matter and will be managed by Council using existing staff resources and the Department of Planning, Housing and Infrastructure.

(c) Legal Implications

The Planning Proposal will not alter any land use planning controls within the *Tamworth Regional Local Environmental Plan 2010*.

(d) Community Consultation

Nil – The amendment to the Dwelling Density Map is an administrative matter and will be undertaken pursuant to Section 3.22 of the *Environmental Planning and Assessment Act 1979*. The DPHI Planning Circular (PS21-014) does not require minor amendments under Section 3.22 of the *Environmental Planning and Assessment Act 1979* to be placed on public exhibition.

(e) Delivery Program Objective/Strategy

Focus Area 2 – A Liveable Built Environment

Focus Area 9 – Open and Collaborative Leadership

7.2 DA2025-0011 - CHILDCARE CENTRE (122 PLACES) WITH ASSOCIATED CARPARKING, LANDSCAPING, BUSINESS IDENTIFICATION SIGNAGE AND LOT CONSOLIDATION (THREE LOTS INTO ONE LOT)

DIRECTORATE: LIVEABLE COMMUNITIES

AUTHOR: Cynthia Lambert, Senior Development Assessment Planner

4 ANNEXURES ATTACHED

1 CONFIDENTIAL ENCLOSURES ENCLOSED

GENERAL MANAGER'S ADVISORY NOTE TO:

Councillors

Applicants

Persons making public submissions (written or verbal) Members of the Public

Record (Division) of Voting

In accordance with Section 375A(3) of the Local Government Act 1993, a Division is required to be called whenever a motion for a planning decision is put at a meeting of the Council or a Council Committee.

A DIVISION under Section 375A(3) of the Act is required on this Planning Application.

Relevant Planning Application

In accordance with Section 10.4(4) of the Environmental Planning and Assessment Act 1979, a person who makes a relevant planning application to Council is required to disclose the following reportable political donations and gifts (if any) made by a person with a financial interest in the application within the period commencing 2 years before the application is made and ending when the application is determined:

- (a) all reportable political donations made to any local councillor of the Council;
- (b) all gifts made to any local councillor or employee of the Council.

Relevant Public Submission

In accordance with Section 10.4(5) of the Environmental Planning and Assessment Act 1979, a person who makes a relevant public submission to Council in relation to a relevant planning application made to the Council is required to disclose the following reportable political donations and gifts (if any) made by the person making the submission or any associate of that person within the period commencing two years before the submission is made and ending when the application is determined:

- (a) all reportable political donations made to any local councillor of the Council;
- (b) all gifts made to any local councillor or employee of the Council.

Disclosure of Reportable Political Donations and Gifts

Planning Applications

Nil

Public Submissions

Nil

RECOMMENDATION

That Council, in relation to the report "DA2025-0011 - Childcare Centre (122 places) with Associated Carparking, Landscaping, Business Identification Signage and Lot Consolidation (Three Lots into One Lot) on Lot 111 DP 1279925, Lot 1004 DP 1295121 and Lot 110 DP 1279925, 9 Wedgetail Road, 4 Nankeen

Avenue and 1 Sea Eagle Avenue, Moore Creek, grant Development Consent subject to the following conditions:

General Conditions of Consent

- 1) **The development must be carried out in accordance with the Development Application and accompanying plans, drawings and other documents as amended by conditions of this consent. Any amendment to the development or to these conditions will require the consent of Council:**

Project Ref No.	Sheet No.	Description	Rev No.	Revision Date	Prepared by:
23020	A001	Location Plan	5	22/10/2024	MAAS
23020	A002	Consolidation and Services Plan	5	22/10/2024	MAAS
23020	A003	Site Plan	5	22/10/2024	MAAS
23020	A004	Turning Templates	5	22/10/2024	MAAS
23020	A101	Ground Floor Plan	5	22/10/2024	MAAS
23020	A102	Roof Plan	5	22/10/2024	MAAS
23020	A501	Elevations	5	22/10/2024	MAAS
23020	A502	Sections and Details	5	22/10/2024	MAAS
MAAS290224	Sheets 1 to 5 (total 5 pages)	Landscape Plan	A	12/06/2024	JK's Garden Creations

Project Ref.	Document Title.	Revision Date	Prepared by:
-	Statement of Environmental Effects	July 2024	MAAS Group Properties
24-2929-	Revised Noise	Sept 2024	Reverb Acoustic

R2	Impact Assessment		
P3001 MAAS	Traffic Impact Assessment	28/06/202 4	SECA solution

If there is any inconsistency between the Conditions of Consent and the documents listed above, the Conditions of Consent shall prevail to the extent of the inconsistency.

- 2) *To confirm and clarify Council's terms of approval, this consent provides for the operation of a Childcare Centre, as defined by the Tamworth Regional Local Environmental Plan 2010, with a maximum of one hundred and twenty-two (122) children and a minimum of 25 car parking spaces.*
- 3) *All building work must be carried out in accordance with the provisions of the National Construction Code (NCC) and where relevant, the provisions of the Disability (Access to Premises - Buildings) Standards 2010.*
- 4) *The Applicant shall consult with, as required:*
 - a) *Essential Energy;*
 - b) *Natural gas company; and*
 - c) *a telecommunications carrier;*

regarding their requirements for the provision of services to the development and the location of existing services that may be affected by the proposed works, either on site or on the adjacent public road(s).
- 5) *Any existing State Survey Mark or Cadastral Survey Mark shall be preserved during construction and not disturbed unless authority has been obtained from the Surveyor-General in accordance with the Surveyor-General's Direction No. 11 Preservation of Survey Infrastructure published by Spatial Services NSW. In this regard, the Principal Contractor is responsible for the protection of the mark.*

Prior to the Commencement of Works

- 6) *The approved development which is the subject of this development consent must not be commenced until:*
 - a) *A construction certificate for the building work has been issued by the consent authority, Council (if Council is not the consent authority) or an accredited Certifier; and*
 - b) *The person having the benefit of the development consent has:*
 - i) *Appointed a Principal Certifying Authority for the building work; and*
 - ii) *Notified the Principal Certifying that the person will carry out the building work as an owner-builder, if that is the case, and;*
 - c) *The principal certifying authority has, no later than 2 days before the building work commences:*
 - i) *Notified the consent authority and Council (if Council is not the consent authority) of his or her appointment, and*
 - ii) *Notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work; and*

- d) *The person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:*
- i) *Appointed a principal contractor for the building work who must be the holder of a contractor license if any residential building work is involved;*
 - ii) *Notified the Principal Certifying Authority of any such appointment;*
 - iii) *Unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work; and*
 - iv) *Give at least 2 days' notice to Council of the persons intention to commence the erection of the building.*
- 7) *Prior to commencement of works, and approval pursuant to section 68 of the Local Government Act 1993 for the following shall be obtained:*
- a) *carry out water supply work;*
 - b) *carry out sewer work;*
 - c) *carry out stormwater work; and*
 - d) *obtain a trade waste agreement (if required).*

Engineering design plans, reports and calculations for internal water, stormwater and sewer, shall be prepared in accordance with Council's current version of the Engineering Design Minimum Standards, and submitted to Council for approval. All plans are to include details of the location of all existing utility services. All engineering drawings and the associated specifications are to be certified by a suitably qualified and experienced design practitioner.

- 8) *Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided:*
- a) *Must be a standard flushing toilet; and*
 - b) *Must be connected to a public sewer; or*
 - c) *If connection to a public sewer is not practicable, to an accredited sewage management facility approved by Council.*

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

- 9) *A peg out survey prepared by a Registered Surveyor is to be submitted to the Certifying Authority to confirm the building may be sited in accordance with approved plans.*
- 10) *A Traffic Management Plan (TMP) detailing how movements in and out of the site during the construction will be adequately managed so as not to adversely impact the safe operation of the road network shall be submitted to Council. This TMP shall consider both vehicular and pedestrian movements. Where the TMP is of a level of complexity that Traffic Guidance Schemes (TGS's) are required, the TGS's shall be prepared by a person with the applicable certification from Transport for New South Wales (TfNSW) in accordance with AS 1742.3 (as amended) and the TfNSW*

current version of the "Traffic Control at Worksites" manual.

- 11) *Erosion and sediment control measures that will minimise damage to and avoid pollution of the environment are required for this development. An erosion and sediment control plan (ESCP) is to be prepared in accordance with the "Blue Book" Managing Urban Stormwater – Soils and Construction (Landcom 2004). THE ESCP is to be submitted to Council for approval and implemented prior to the commencement of any construction works.*
- 12) *The applicant must ensure that a sign containing the following information is erected in a prominent position and maintained on the site at all times:*
 - a) *The name, address and telephone number of the principal certifying authority for the work;*
 - b) *The name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and*
 - c) *A statement that unauthorised entry to the work site is prohibited.*

The sign is to be removed when the work has been completed

Fixtures and Fittings

- 13) *Prior to any works commencing on the fitouts of the kitchen within the development, the following information is required to be submitted to the Environmental Health section of Council for approval:*
 - a) *A Floor Plan, drawn to scale, showing all equipment, fittings and fixtures, including benches, storage cupboards, sinks, hand wash basins, door/window openings, and storage areas for cleaning equipment/chemicals and staff personal items. Details are to include finishes to walls, floors and ceilings, heights, fittings and fixtures, junctions of walls and floors and lighting provisions;*
 - b) *Sectional elevations of all benches, equipment and fixtures; and*
 - c) *Mechanical exhaust ventilation plans showing all dimensions, details and specifications of cooking equipment (i.e., gas, electricity) and external discharge points.*

Prior to Issue of a Construction Certificate

- 14) *In accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 and the Tamworth Regional Council Section 7.12 Development Contributions Plan 2013, \$29,349 shall be paid to Council to cater for the increased demand for community infrastructure resulting from the development. If the contributions are not paid within the financial year that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Development Contributions Plan and the amount payable will be calculated on the basis of the contribution rates applicable at the time of payment in the following manner:*

$$\begin{aligned} \$C_{PY} &= \frac{\$C_{DC} \times CPI_{PY}}{CPI_{DC}} \end{aligned}$$

Where:

$\$C_{PY}$ Is the amount of the contribution at the date of

Payment

$\$C_{DC}$ *Is the amount of the contribution as set out in this development consent*

CPI_{PY} *Is the latest release of the Consumer Price Index (Sydney - All Groups) for the financial year at the date of Payment as published by the ABS*

CPI_{DC} *Is the Consumer Price Index (Sydney - All Groups) for the financial year at the date of this development consent*

The monetary contributions shall be paid to Council:

- a) ***Prior to the issue of the first Construction Certificate where the development is for building work.***

It is the professional responsibility of the Principal Certifier to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.

The Tamworth Regional Council Section 7.12 Development Contributions Plan may be viewed at www.tamworth.nsw.gov.au or a copy may be inspected at Council's Administration Centre during normal business hours.

- 15) ***Pursuant to Section 306 of the Water Management Act 2000, Council (as the Local Water Supply Authority) requires the following contributions to be paid and design plans and certification supplied prior to the release of a Construction Certificate:***

Headworks

- ***Water = \$59,961.60***
- ***Sewer = \$46,009.20***

Note - The above headworks contributions have been adopted under the 2024/2025 Council Annual Operation Plan. Revised rates adopted in subsequent Annual Operation Plans will apply to Headworks Contributions paid in later financial years.

Sewer

For sewer mains greater than 1.5 metres deep, Council's Policy for Sewer 'Excavating/Filling or Building Adjacent to or Over Existing Sewer Mains', requires that structures/footings located within the Zone of Influence of Council's sewer main (applicable to the proposed building and brickwork wall/signage panel) be designed and constructed to ensure the following:

- The structure (including piling) is not to be constructed within 2.0 metres of Council's sewer main - measured horizontally from the centreline of the sewer;***
- The structure will not suffer damage should the sewer trench subside or be re-excavated for maintenance; and***
- The foundation design ensures no loading from the structure is transmitted to the main.***

A certificate signed by a suitably experienced and qualified structural engineer that the design satisfies these conditions is required for approval prior to the issue of a Construction Certificate.

(Note: For additional information please refer to councils Policy for “Excavating/Filling or Building Adjacent to or Over Existing Sewer Mains”)

- 16) *An approval pursuant to Section 138 of the Roads Act 1993, must be obtained from Council for all works associated with this development that will be undertaken in the road reserve, including but not limited to the proposed driveway, footpaths, and stormwater drainage works. The ongoing maintenance and/or repair of the vehicle crossing and associated infrastructure is the responsibility of the owner in accordance with Section 142 of the Roads Act 1993.*

Notwithstanding the requirements of the Engineering Design Minimum Standards, items to be addressed as part of the Section 138 Application shall include, but not be limited to:

- a) *Stormwater infrastructure connecting to Council’s kerb inlet pit;*
- b) *A 1.5m wide concrete footpath the entire frontage of Wedgetail Road connected to existing footpaths on Nankeen Avenue and Sea Eagle Avenue, with pram ramps as required; and*
- c) *Certification being provided in accordance with Annexure A of Council’s current version of the Engineering Design Minimum Standards.*

Advisory Note 1: Council requires works-as-executed (WAE) plans to be prepared and submitted in accordance with Council’s Engineering Design Minimum Standards for any footpaths gifted as part of this development.

Advisory Note 2: All plans are to include details of the location of all existing utility services.

Advisory Note 3: Any line marking and/or regulatory signage shown on any plan is required to be reviewed and approved by the Local Traffic Committee.

- 17) *Prior to issue of a Construction Certificate, the Registered Certifier is to be satisfied that the Structural Engineering design for the approved development will ensure loads are not imposed on the registered easement and that the building is supported independently of the easement.*
- 18) *Retaining walls greater than 600mm above finished ground level or other approved methods necessary to prevent movement of excavated or filled ground, together with associated stormwater drainage measures, shall be designed by a qualified, practising Structural Engineer. Details are to be included with any Construction Certificate application.*
- 19) *To ensure that the building design facilitates suitable entry, movement and sanitary facilities for people with a disability, disabled access and facilities are to be provided in accordance with the National Construction Code (NCC), Australian Standards and the Premises Standard. Details of compliance must be nominated on the plans prepared to accompany a Construction Certificate.*
- 20) *The developer must produce written evidence that an agreement can be put in place with Council’s Water and Waste Directorate or a waste collection contractor for the collection of rubbish bins from private property prior to issue of any Construction Certificate.*

- 21) *Prior to issue of a Construction Certificate, details of the proposed mechanical plant shall be provided to the acoustic consultant for review to ensure they meet the requirements of Section 7.3, 7.4 or 7.5 of the Revised Noise Impact Assessment, Report No.24-2929-R2, dated September 2024. Confirmation of their suitability and completed review by the acoustic consultant shall be provided to Council prior to issue of a Construction Certificate.*
- 22) *Acoustic barriers must be installed along the western boundary of the allotment. Barriers shall have a minimum height of 1.8m from ground level and be constructed from suitable impervious materials, with no significant gaps to allow the transmission of sound. The details of the barrier construction shall be provided to an acoustic consultant for review and suitability prior to issue of a Construction Certificate.*

During works

- 23) *Work on the project shall be limited to the following hours to prevent unreasonable disturbance to the amenity of the area:*

Monday to Friday - 7.00am to 5.00pm;

Saturday - 8.00am to 1.00pm if audible on other residential premises, otherwise 7.00am to 5.00pm;

No work to be carried out on Sunday or Public Holidays if it is audible on other residential premises.

The applicant shall be responsible to instruct and control any sub-contractors regarding the hours of work.

- 24) *A copy of the approved and certified plans, specifications and documents incorporating conditions of approval shall be kept on the site at all times and shall be readily available for perusal.*
- 25) *It is required that a Principal Certifying Authority (PCA) be appointed to undertake all critical stage inspections as prescribed under the Environmental Planning and Assessment Regulations, 2021. The owner may appoint either Council or an accredited certifier to be the PCA.*

The applicant must maintain the installed water pollution, erosion and sedimentation controls in accordance with the "Managing Urban Stormwater - Soils and Construction" published by the NSW Department of Housing ("The Blue Book").
- 26) *Dust control measures are to be in place or are to be undertaken for the duration of the works to prevent dust from affecting the amenity of the immediate area during construction. The applicant is to ensure controls are maintained for the duration of the works and is to inspect the control for this purpose at frequent intervals. Any deficiencies are to be immediately made good.*
- 27) *Any spillage of materials onto Council infrastructure, as a result of delivery or handling for this development, must be removed as soon as practicable by the developer and placed into suitable receptacles for reclamation or disposal in a manner that does not cause pollution of the environment.*
- 28) *The public way (outside of any construction works zone) must not be obstructed by any construction fencing, materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by the relevant Authority to stop all work on site.*

- 29) *If any unexpected contamination is discovered during construction works, the appropriate actions shall be taken in accordance with SEPP (Resilience and Hazards) 2021, work health and safety and environmental protocols to address any issues relating to human health and environmental protection. Councils' Environmental Health Division must be notified and all work in the area of discovery is to be immediately ceased until clearance is obtained from Council.*

Stormwater

- 30) *The stormwater drainage system shall be designed and constructed to comply with the following requirements as a minimum:*
- a) *All plumbing within the site must be designed and constructed in accordance with the relevant provisions of Australian Standard AS/NZS 3500.3 (as amended) Plumbing and Drainage – Stormwater Drainage and Council's current version of the Engineering Design Minimum Standards;*
 - b) *Temporary down pipes shall be connected as soon as the roof has been covered so as to not cause a nuisance to adjoining properties;*
 - c) *All overland surface flow paths must have a practical and satisfactory destination with due consideration to erosion and sediment control during all stages of development. A system to prevent overland flows discharging onto adjoining properties shall be implemented;*
 - d) *Any interruption to the natural overland flow of stormwater drainage which could result in the disruption of amenity, or drainage or deterioration to any other property is not permitted. Gates/fences located on drainage easements shall be open-styled; and*
 - e) *No effluent or polluted water of any type may be allowed to enter the Council's stormwater drainage system.*
- 31) *The approved points of discharge for the development site are defined as the preinstalled interallotment drainage pits located within the drainage easement and Council's kerb inlet pit located in the Sea Eagle Avenue road reserve.*
- 32) *All major flows shall be conveyed to the Wedgetail Road road reserve so as not to impact any adjoining properties.*

Allotment Filling

- 33) *Any allotment filling that may be required for the development site shall meet the requirements of AS3798 (as amended) – Guidelines on Earthworks for Commercial and Residential Developments. Certification of the allotment filling shall be provided by a geotechnical testing authority registered under NATA. The testing authority shall be required to certify whether the fill complies with the requirements of AS 3798 (as amended).*

Traffic and Parking

- 34) *All internal driveways, parking areas, loading bays, vehicle turning areas and barriers are to be designed and constructed to comply with Australian Standard (AS/NZS) 2890.1 Parking Facilities – Off-street parking and AS 2890.6 Parking Facilities – Off-street parking for people with disabilities.*
- 35) *All internal driveways, parking and loading areas to be constructed with a base course of adequate depth to accommodate the design vehicle loading, being sealed with either asphaltic concrete, concrete or interlocking*

pavers.

- 36) *A 1.5m wide concrete footpath is to be constructed along the verge fronting Wedgetail Road and connected to existing footpaths on Nankeen Avenue and Sea Eagle Avenue, with pram ramps as required.*
- 37) *On-site parking shall be provided for a minimum of 25 vehicles, to ensure the provision of adequate on-site parking facilities commensurate with the demand likely to be generated by the proposed development. Such parking must be set out generally in accordance with the details indicated on the submitted plans, except as otherwise stated by the conditions of this consent.*

Lighting

- 38) *To provide for the safety and security of employees and users of the facility, outdoor lighting in accordance with AS 1158.3.1 Lighting for roads and public spaces Part 3.1: Pedestrian area (Category P) lighting – performance and design requirements shall be provided to all off-street parking areas. The lighting installed must comply with AS 4282 Control of Obtrusive Effects of Outdoor Lighting.*

Heritage

- 39) *While site work is being carried out, if a person reasonably suspects a relic or Aboriginal object is discovered:*
 - a) *the work in the area of the discovery must cease immediately;*
 - b) *the following must be notified:*
 - i) *for a relic – the Heritage Council; or*
 - ii) *for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85;*

Site work may recommence at a time confirmed in writing by:

- c) *for a relic – the Heritage Council; or*
- d) *for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85.*

Food Preparation Area

- 40) *Any mechanical ventilation system to be installed must comply with the Australian Standard AS1668- 2002: The use of ventilation and air-conditioning in buildings.*
- 41) *A separate hand wash basin will be required additional to any food preparation sink and shall be used only for the purpose of hand washing. Hand basins must be provided in accessible and convenient locations. The basins must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and long enough tap handle to facilitate hands free operation will be acceptable. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to the hand basin.*
- 42) *All fixtures and fittings shall be designed, constructed, located and installed to ensure the following:*

- a) *They will not cause any food contamination;*
 - b) *They are able to be easily and effectively cleaned;*
 - c) *They do not provide harbourage for pests where practicable;*
 - d) *They must be located to ensure adjacent floors, walls, ceilings and other surfaces are able to be easily and effectively cleaned;*
 - e) *They may be supported on:*
 - i) *Legs: Legs for fittings and fixtures must be constructed of non-corrosive, smooth metal or moulded plastic, and have a clearance space between the floor and underside of the fitting of at least 150mm.*
 - ii) *Plinths: If fixtures are built into the walls and floors and cannot be moved for cleaning then plinths must be an integral component of the design. They must be constructed of materials similar to the floor at least 75mm in height and coved at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be sealed to plinths to ensure there are no gaps, cracks or crevices.*
- 43) *All Mechanical Exhaust Ventilation shall be provided above any cooking appliances and constructed in accordance with Australian Standard 1668.2 – 1991 – ‘The use of mechanical ventilation and air conditioning in buildings – Part 2: Mechanical ventilation for acceptable indoor-air quality’. An exhaust hood must completely cover the equipment to be ventilated and extended at least 200mm beyond the perimeter of the equipment (Australian Standard 1668.2 – 1991).*
- 44) *The exhaust hood (if required) must be provided with a condensation gutter around its base. The gutter must be at least 50mm wide by 25mm deep. The hood must be constructed so as to finish flat against the wall surface. The low edge of a canopy type exhaust hood must be at least 2000mm above floor level (Australian Standard 1668.2 – 1991). A certificate of compliance will be required for the exhaust system prior to operations commencing.*

Flooring

- 45) *The floor construction in a food preparation area must be finished to a smooth and non-slip surface. Recessed coving must be provided at all intersections of the floor with the walls within all food preparation areas. All coving must have a minimum concave radius of 25mm and be installed so as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface.*

Lighting

- 46) *The premises must provide sufficient natural or artificial light for the activities conducted at the premises. Lighting in the food preparation must be provided with covers, or have shatterproof bulbs to prevent food contamination in case of a breakage.*

Storage of Garbage and Recyclable Matter

- 47) *The premises must have facilities for the storage of waste and recyclable matter which adequately contain the volume of waste generated, and enclose waste to prevent access by pests and animals. Waste receptacles must also be designed to ensure they are easily cleaned and sanitised.*

Pest control

- 48) *The premises must be designed in such a way that all practicable measures have been taken to prevent the entry and harbourage of pests and vermin within the premises. This means ensuring there are no gaps, cracks or crevices for pests to access and harbour within, providing screens for doors and windows where practical, and weather strips to the bottom of doors.*

Water

- 49) *The premises must have connection to an adequate supply of hot and cold potable water in compliance to the relevant Food Safety Standards and relevant legislation, where water is to be used for activities conducted at the food premises.*

Sewage and wastewater disposal

- 50) *The premises must have a sewage and wastewater system which effectively disposes waste without the possibility of contaminating the premises water supply or food.*

Landscaping

- 51) *New landscaping shall comprise only low maintenance, drought and frost tolerant native species as indicated in the approved Landscape Plan.*

Prior to issue of an Occupation Certificate

- 52) *The occupation or use of the whole or any part of a new building must not commence unless an occupation certificate has been issued in relation to the building or part.*
- 53) *All works as required by these conditions of consent shall be complete.*
- 54) *Pursuant to Section 306 of the Water Management Act 2000, Council (as the Local Water Supply Authority) requires the following works to be completed prior to the release of a Compliance Certificate:*

Water

- a) *A single water service is to be provided to the lot;*
- b) *Redundant water connections shall be removed;*
- c) *The developer will be responsible for engaging a hydraulic engineer to determine the fire fighting and domestic demands, and to determine an appropriate service size for the development;*
- d) *If the existing water service requires upsizing or relocation then the existing service is to be removed and disconnected from the water main;*
- e) *Works shall be undertaken in accordance with Council's current version of the Engineering Design Minimum Standards; and*
- f) *Work on live water mains is to be undertaken by Council at full cost to the developer.*

Sewer

- g) *A single sewer service is to be provided to the lot;*
- h) *Redundant sewer services are to be removed and disconnected from the sewer main;*
- i) *Works shall be undertaken in accordance with Councils Engineering Design Minimum Standards; and*

j) *Work on live sewer mains is to be undertaken by Council at full cost to developer.*

- 55) *A Certificate of Compliance under Section 307 of the Water Management Act 2000 shall be obtained from Council (as the Local Water Supply Authority) prior to the provision of any Occupation Certificate. All payments and works required under Section 306 of the Water Management Act 2000 must be received and completed prior to the release of a Certificate of Compliance.*
- 56) *Prior to issue of an Occupation Certificate, the Principal Certifier (PC) must be satisfied all landscaping have been completed in accordance with approved plans and documents and any relevant conditions of this consent.*

Lot consolidation

- 57) *The consolidation of lots shall be registered prior to the provision of any Occupation Certificate, including easements for utilities and services, in particular sewer and stormwater, in favour of the Lot(s) benefiting and/or Council, shall be provided where services are located on private properties and/or overland flows traverse private property. This information shall be submitted to Council for approval.*

Fire Safety

- 58) *To ensure that the requires fire safety measures are provided in accordance with the building's use and operate in accordance with the appropriate standards, the owner must cause a copy of a Fire Safety Certificate to be given to Council and the Commissioner of the NSW Fire Brigades prior to occupation in relation to the fire safety measures required by the National Construction Code (NCC).*

Noise Management

- 59) *Waste collection shall be restricted between 7.00am to 6.00pm.*
- 60) *The Noise Management Plan (NMP) should adopt and implement acoustic criteria from the Revised Noise Impact Assessment Report (prepared by Reverb Acoustics, dated September 2024), being:*

Noise Source <i>(Measured at the boundary of receiver)</i>	Noise Level <i>(dbA)</i>	Applicable Time Period
Mechanical plant and vehicles	43 dB(A) LAeq 15min	During Operation Hours
Outdoor Playing Area	45 dB(A) LAeq 15min	During Operation Hours

<i>Sleep Disturbance Criteria (at façade of residence)</i>	<i>35-40</i>	<i>During Operation Hours</i>
--	--------------	-------------------------------

The following management measures/procedures must also be included in the NMP:

- a) separate daily programs for both warmer and cooler months in order to regulate the total time spent outdoors and indoors. The program should be made publicly available to parents and neighbours;*
 - b) contact phone numbers for the overall facility manager or director should be made available to neighbours to facilitate communication and to resolve any neighbourhood issues that may arise due to operation of the childcare centre;*
 - c) details of the typical number of children anticipated to be present in the outdoor play area;*
 - d) procedure to ensure that crying children are taken inside the childcare centre building and comforted;*
 - e) details of plans and procedures to ensure that the behaviour of children is monitored and modified as required by adequately trained teachers and childcare workers, to assist in ensuring compliance with overall noise guidelines;*
 - f) a procedure to ensure that parents and guardians are informed regarding the importance of noise minimisation when entering the site, and dropping off or picking up children;*
 - g) procedures as required to ensure that staff control the level of their voices while outside; and*
 - h) minimisation or control of any use of amplified music to ensure compliance with noise management guidelines.*
- 61) All acoustic control measures as identified within the Noise Assessment Revised Noise Impact Assessment Report (prepared by Reverb Acoustics, dated September 2024), are to be incorporated into the construction and operation of the development so as to manage and mitigate noise impacts appropriately. This must include the following:*
- a) Acoustic Fence:*

Construction of an impervious barrier around the outdoor play area to the western boundary of the project and extending along the northern boundary of outdoor area 2 as indicated in in Figure 2, page 15 of the Revised Noise Impact Assessment Report. The barrier should be constructed to an RL of 1.8m above the relative ground level of the project site. Acceptable forms of construction include Colorbond (minimum 0.46mm BMT), lapped and capped timber, Hebel Powerpanel, masonry or retaining wall fence combination. No significant gaps should remain in the fence to allow the passage of sound below the recommended height. Other construction options are available if desired, providing the fence or wall is impervious and of equivalent or greater surface mass than the above options. Administrative noise control in regard to use of the outdoor play area, i.e. ensure individual groups of children are in the play areas at different times. Implementation of the above strategy will result in a

further 2-3dB(A) reduction in noise such as separate daily programs for both the warmer and cooler months in order to regulate the total time spent outdoors and indoors. The program should be made publicly available to parents and neighbours. The outdoor play areas must not be used prior to 7am.

A noise validation assessment may be required to quantify noise emissions and confirm that they meet the conditioned PNTL if Council receives future noise complaints relating to the operation of the development.

- 62) *Prior to issue of an Occupation Certificate, all acoustic fencing and required acoustic treatments related to the mechanical plant (if relevant) as recommended in the Revised Noise Impact Assessment Report (prepared by Reverb Acoustics, dated September 2024) shall be completed.*

Ongoing use

- 63) *The approved hours of operation are:*

<i>Staff hours</i>	<i>Monday to Friday: 6:30am – 6:30pm</i>
<i>Operation of childcare centre</i>	<i>Monday to Friday: 7:00am – 6:00pm</i>

- 64) *The approved Childcare Centre shall comply with the Education and Care Services National Regulations.*
- 65) *The sealing and marking of crossovers and all vehicular parking, manoeuvring and loading areas, and landscaped areas on the site are to be maintained at all times.*
- 66) *All vehicle movements into and out of the development site shall be in a forward direction.*
- 67) *Vehicles shall be loaded or unloaded, standing wholly within the development site and within loading zones if designated on the approved plans, to ensure that the proposed development does not give rise to street loading or unloading operations. Under no circumstances are vehicles to be loaded or unloaded at the kerb side or across the verge.*
- 68) *Proposed parking areas, driveways and turning areas shall be maintained clear of obstructions and be used exclusively for purposes of vehicle parking and vehicle access respectively for the life of the development. Under no circumstances are such areas to be used for the storage of goods or waste materials.*
- 69) *The on-site stormwater systems shall be maintained at all times so as to ensure their effective operation for their intended purpose.*
- 70) *The landscaped area of the development is to be maintained at all times.*

Childcare Plan of Management

- 71) *A Childcare Plan of Management must be developed for the day to day operations of the child care centre and to minimise any adverse effects upon neighbours. The Childcare Plan of Management must include, but not limited to, the following:*
- a) *Staffing/parents/children arrival and departure procedures (Drop off and pick up procedures);*

- b) Day to Day Operations Policy;*
- c) Noise Management Plan (prepared as part of Condition 60);*
- d) Traffic and Parking management procedures, including an induction program for parents regarding arrivals and departure times to minimise congestion in the carpark;*
- e) Security and Safety Plan; and*
- f) Any requirements of the Education and Care Services National Regulations.*

72) The Childcare Plan of Management must be adhered to at all times.

Signage

73) Signage shall be maintained in good structural condition, kept clean, neatly painted and to be of professional standard of design and appearance.

74) Should any signage become redundant, such signage should be removed immediately.

75) Any additional signage (other than business identification signs approved as part of this consent) is subject to a separate approval unless it satisfies the development standards and land requirements to be exempt development under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

76) During ongoing use of the premises signage of the building street number and building name (where applicable) shall be clearly displayed.

Food preparation

77) The kitchen and any associated food production and storage areas must comply with the requirements of the Food Act 2003. The premises are also required to comply with Standard 3.2.2 Food Safety Practices and General Requirements and Standard 3.2.3 Food Premises and Equipment within the Food Standards Code.

Noise management

78) Offensive noise should not be generated from the continuing operation of this development activity. Offensive noise is defined in the Protection of the Environment Operations Act 1997 as noise that by reason of its level, nature, character or quality, or the time at which the noise is made can be considered offensive or unreasonably interferes with the comfort or repose of a person who is outside of the premises from which the noise is emitted.

79) All acoustic control measures as identified within Section 4.4 Recommendations (pp.14-17) of the Revised Noise Impact Assessment Report (prepared by Reverb Acoustics, dated September 2024), shall be incorporated into the construction and operation of the development so as to managed and mitigate noise impacts appropriately.

Advice Notes

***Note 1:** Clause 89 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 requires the owner of a building to which an essential fire safety measure is applicable to maintain each essential fire safety measure as identified by virtue of a fire safety schedule, to a standard no less than that specified in the schedule inclusive of the entire building.*

***Note 2:** Within each 12 months after completion of the building, the owner of the*

building must cause Council to be given an annual fire safety statement in accordance with Clause 89 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, for each measure listed in the schedule for the entire building. The statement must only be in the form specified by clause 92 of the Regulation. A copy of the statement is to be given to the Commissioner of the New South Wales Fire Brigade. Email address for lodgement of Annual Fire Safety Statement - <https://www.fire.nsw.gov.au/page.php?id=9418> and a copy must also be sent to Council development@tamworth.nsw.gov.au

APPLICATION DETAILS:

Application No.	DA2025-0011/ PAN-449951
Application For:	Childcare Centre (122 Places) with associated carparking, landscaping, business identification signage and Lot Consolidation (Three (3) Lots into One (1) Lot)
Date Received:	08 July 2024
Applicant:	The Trustee for MAAS Commercial Eagle View Unit Trust
Owner:	MAAS Group Properties Eagle View Pty Ltd
Land/Address:	Lot 110 DP 1279925, Lot 111 DP 1279925 and Lot 1004 DP 1295121, 9 Wedgetail Road MOORE CREEK NSW 2340
Zoning:	R2 Low Density Residential - <i>Tamworth Regional Local Environmental Plan 2010</i>)

DEVELOPMENT ASSESSMENT SUMMARY

The proposed development consists of the construction of a centre-based child care facility. The proposed development also includes the development of an associated carpark containing 25 spaces, acoustic fencing, business identification signage and landscaping. Consolidation of Lot 110 DP 1279925, Lot 111 DP 1279925 and Lot 1004 DP 1295121 is also proposed, which will result in a total land area of 3078m².

The proposal is a permissible use within the R2 Low Density Residential Zone in accordance with the *Tamworth Regional Local Environmental Plan 2010 (TRLEP)* and meets the zone objective. The proposed development is largely compliant with the relevant NSW planning legislation; State Environmental Planning Policies, the TRLEP and Tamworth Regional Development Control Plan 2010 (DCP).

Reason for Referral to Council

DA2025-0011 has been referred to Council for determination due to the number of submissions that were received during the public consultation period. A total of ten (10) submissions (nine (9) objections, one (1) in support) were received, see **ENCLOSED**, refer to **CONFIDENTIAL ENCLOSURE 1**. The issues raised in the submissions have been addressed in this report and identified here:

- Breach of a restriction of use on land;
- Traffic and Safety Concerns;

- Loss of Amenity;
- Site Suitability;
- Maintenance; and
- Loss of Property Values

DESCRIPTION OF PROPOSAL:

Development consent is sought for:

- Construction of a centre-based childcare facility accommodating 122 children, and containing:
 - Seven separate playrooms, each with two rooms allocated to children aged 0-24 months and 24-36 months; and three rooms allocated to children aged 36 months and over;
 - Administration areas, service areas, storerooms, staff room, meeting room and reception area. The service areas will include a kitchen, bathroom and laundry amenities;
 - Two outdoor play areas to the west and eastern boundaries, comprising a total area of 886m². These areas will consist of play equipment, landscaping and shade sail structures;
- Operating hours of 6.30am - 6.00pm, Mondays to Fridays (excluding public holidays). A minimum of 20 educators to operate at various times throughout the week within the relevant staffing guidelines;
- A new carpark comprising 25 carparking spaces within the designated parking area on the northern section of the subject land. All vehicular access to the site is facilitated from Wedgetail Road; and
- One wall mounted sign (5m x 2m) integrated within the north façade of the building and one fence mounted sign (5m x 1.8m) will be incorporated into the brick fencing located along the corner of Wedgetail Road and Nankeen Avenue.

The submitted plans are **ATTACHED**, refer **ANNEXURE 1**.

REFERRALS

The Development Application was referred internally to Council's Development Engineering Division, Environmental Health and Building Certification teams. Comments and development requirements for each specialist team are discussed in greater detail further in this report. No objections were raised in the referral responses subject to recommended conditions of consent.

No referrals to external authorities were required.

SUBJECT SITE AND LOCALITY MAP

The subject lots are legally described as Lot 111 DP 1279925, Lot 110 DP 1279925 and Lot 1004 DP 1295121, located on the corner of 9 Wedgetail Road, 4 Nankeen Avenue and 1 Sea Eagle Avenue, Moore Creek, being approximately 182m north of its intersection with Browns Lane. The three lots combined will result in an approximate total area of 3078m². The subject lots are zoned R2 Low Density Residential according to the TRLEP. All lots are currently vacant and devoid of any vegetation. No vehicular access had yet to be established from any of the lots. The subject lots form part of the recently established Eagle View Estate in Moore Creek. The immediate area currently consists of a mixture of vacant residential land parcels and newly or partially constructed dwellings on lots over 1000m². Council’s reticulated water and sewer services are available to the subject lots.

The Site Map is **ATTACHED**, refer **ANNEXURE 2**.

ASSESSMENT REPORT:

The following matters listed under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, are relevant in considering this application:

S4.15(1)(a)(i) Provisions of any environmental planning instrument.

Statement Environmental Planning Policy (Resilience and Hazards) 2021

Pursuant to Section 4.6 of the Policy, consideration of whether the land is suitable for a proposed use having regard to any known or potentially contaminating land use activities is required.

The subject lots were created as part of the Eagle View Estate Residential subdivision and land contamination issues were considered as part of DA0803/2007 approval. No further assessment or investigation is warranted at present.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 3 of this Policy contains the planning provisions relating to child care centres.

The proposed child care centre is consistent with the aims of the Policy and will result in the provision of additional child care places in the locality.

The proposal meets the prescribed development controls having regard to the provision of indoor and outdoor play spaces. The proposed design of the child care facility is consistent with the Care Services National Regulations (National Regulations). The proposal is generally consistent with the requirements of the Child Care Planning Guideline, with the exception of the following standards discussed in **Table 1**.

Child Care Planning Guideline	
3.3 Building orientation, envelope and design	
C13	
Where there are no prevailing setback controls the minimum setback to a classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of	The subject lots are located on a corner. The proposed building will front Wedgetail Road and be setback approximately 10m from the Wedgetail Road frontage and 5m from the Nankeen Avenue frontage, and there are currently no existing buildings adjoining the lot along Wedgetail Road. An existing dwelling

<p>the two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use.</p>	<p>(6 Nankeen Avenue) adjoining the site to the west is currently setback approximately 5.5m from the Nankeen Street frontage. The proposed building will be setback 5m from the secondary frontage (Nankeen Avenue) which complies with Council’s setback controls for secondary frontages.</p>
<p>3.7 Hours of operation</p>	
<p>C29</p>	
<p>Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses.</p>	<p>Variation proposed - The centre is proposed to operate between 6.30am and 6pm, Monday to Friday. Staff members will arrive at the centre from 6am onwards to prepare for the 6.30am opening. The acoustic report has recommended that outdoor play or activities be restricted until 7.00am for noise attenuation purposes.</p> <p>Given the number of concerns received in regard to noise and the residential setting of the site, it is recommended that operating hours be restricted to 7.00am to 6.00pm on weekdays, with staff hours be restricted to 6.30am to 6.30pm on weekdays in consideration of acoustic concerns raised in submissions received.</p>

Table 1: Proposed variations sought under the Child care Planning Guideline

State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3 of this Policy requires that the consent authority must carry out an assessment of the proposal against the aims and objectives of Clause 3.1 and the assessment criteria within Schedule 5 before granting consent.

The assessment indicates that the proposed signage is compatible with the amenity and visual character of the area. The proposed signage locations are suitable for their intended use, will not be illuminated and will be of a high quality design.

Tamworth Regional Local Environmental Plan 2010:

The proposed development is consistent with the Clause 1.2 Aims of the TRLEP as follows:

- b) *to allow flexibility in the planning framework so as to encourage orderly, economic and equitable development while safeguarding the community’s interests and residential amenity*

The subject lots are zoned R2 Low Density Residential under the provisions of the TRLEP. The objectives of the R2 zone are:

- *to provide for the housing needs of the community within a low density residential environment.*
- *to enable other land uses that provide facilities or services to meet the day to day needs of residents.*

A ‘centre-based child care facility’ is a type of development that is permissible with consent in the R2 zone. It is considered that the development and operation of a centre-based child

care facility will provide services that meet the day to day needs of the residents of Moore Creek.

The Section 88b Instrument applying to DP1279925 contains terms of restrictions (secondly referred on the plan) imposed by the estate developer which are applicable to the subject lots including residential use, fencing specifications, landscaping and subdivision. Maas Group Properties Eagle View Pty Ltd is empowered to release, vary or modify the restrictions burdening the subject lots. The proposed development will require a variation, release and modification of these restrictions. The applicant has provided a consent signed by Maas Group Properties Eagle View Pty Ltd approving the variations to the restrictions for the subject lots.

A copy of the Section 88b Instrument is **ATTACHED**, refer **ANNEXURE 3**.

A copy of the signed consent to vary Section 88b Instrument DP1279925 is **ATTACHED**, refer **ANNEXURE 4**.

Additionally, Clause 1.9A of the TRLEP provides for the suspension of covenants, agreements and instruments imposed by a developer to enable development on land in any zone to be carried out in accordance with the TRLEP. What this means is that Council is not required by law to enforce the developer covenant.

S4.15(1)(a)(ii) Provisions of any draft environmental planning instrument.

There are no draft environmental planning instruments which apply to the subject land.

S4.15(1)(a)(iii) Provisions of any Development Control Plan.

Tamworth Regional Development Control Plan 2010:

An assessment against relevant provisions within the ‘Commercial and Retail’ and ‘Subdivision’ Chapters of the Tamworth Regional Council Development Control Plan 2010 (DCP) is presented in Table 2 and Table 3 below:

Commercial/Retail controls	
Controls	Assessment
Building Setbacks	Complies - There are no front setbacks to street frontage applicable. The proposed building is located on a corner and is setback 5m from the Nankeen Avenue frontage and approximately 10m from the Wedgetail Road frontages. There is presently an existing dwelling located on the adjoining lot fronting Nankeen Avenue that is setback less than 5m from the street frontage.
Height	No height restrictions or Floor Space Ratios apply.
Outdoor Lighting	Can comply subject to conditions. A condition has been included in the conditions of consent requiring any outdoor lighting to comply with the relevant Australian Standard, AS4282.
Outdoor Signage	Complies – The proposed development will incorporate one wall mounted sign (5m x 2m) integrated within the north façade of the building and one fence mounted sign (5m x 1.8m) to be incorporated into the brick fencing located along the corner of Wedgetail Road and Nankeen Avenue. Neither

	sign will be illuminated. The signage complies with the requirements of Chapter 3 and the Schedule 5 Assessment criteria of State Environmental Planning Policy (Industry and Employment) 2021.
Design	A new single storey building is proposed with associated carparking and landscaping. The building will feature a mixture of Colorbond walls and brick feature walls for articulation and a non-reflective Colorbond skillion roof in neutral grey colours. No large expansive black walls are proposed and sections of the building fronting the corner of Wedgetail Road and Nankeen Avenue incorporate a splayed brick wall with signage.
Utilities and Services	The subject lots are serviced by Council's reticulated water and sewer infrastructure. Conditions regarding activity approvals under Section 68 of the <i>Local Government Act 1993</i> , stormwater management have been included in the consent in accordance with advice received from Council's Development Engineering Division.
Traffic and Access	A Traffic Impact Assessment (TIA) was submitted as part of the application and the report has been reviewed by Council's Development Engineering Division. It is acknowledged that the proposed development will result in an increase in traffic in the locality, however, the local road network has the capacity to accommodate the increased traffic volumes. No additional traffic mitigation measure or intersection treatments are required to accommodate the proposed development. Traffic impact is discussed in more detail later in this report.
Parking	<p>The application was lodged with Council prior to the adoption of Amendment 17 of the DCP which requires one space for every four children.</p> <p>Therefore, the carparking rates for a "childcare centre" that applied were those in accordance with the DCP (Amendment 16) which required:</p> <ul style="list-style-type: none"> • <i>1 space for every 5 children (based on maximum allowed)</i> <p>Based on a maximum of 122 children, the number carparking spaces required is: $122/5 = 24.4$ spaces, rounded to 25 spaces.</p> <p>A total of 25 spaces have been provided onsite including one accessible carparking space which meets the DCP requirement.</p>
Landscaping	The submitted landscape plan indicates that canopy trees, ground cover species and suitable plantings will be established throughout the site to provide shading and soften the visual impact of large hard surfaces and play areas.
Noise	A noise assessment report was lodged with the application which concludes that noise emissions from the proposed development are appropriate when specific noise

	management controls are implemented.
--	--------------------------------------

Table 2: Assessment against relevant Commercial and Retail DCP provisions

Subdivision Controls	
Controls	Assessment
Plans of Subdivision	The application includes consolidation of Lot 110 DP 1279925, Lot 111 DP 1279925 and Lot 1004 DP 1295121. A proposed plan of consolidation has been submitted. It is recommended that a condition requiring registration of the lot consolidation including retention of existing easements is imposed as a condition of consent.
Servicing Strategy and Preliminary Engineering Designs	N/A – the proposed development will utilise available services connections available onsite.
Water and Sewer	Council’s reticulated water and sewer services are available to the site. Relevant calculations of water and sewer headworks charges have been determined and recommended for inclusion as conditions of consent.
Stormwater Drainage	The development proposes to drain stormwater into the pre-installed interallotment drainage pits on the existing lots. Council’s Development Engineering Division has reviewed the proposal and has no objections subject to recommended conditions of consent.
Staged Subdivision	The proposed development will not be staged.
Site Levels and Retaining Walls	The subject lots are relatively flat and retaining walls over 600mm are proposed mainly along the corner of Wedgetail Road and Nankeen Avenue in addition to safety fences. It is recommended that a standard condition be imposed requiring any retaining walls over 600mm to be designed by a structural engineer.
Garbage Collection	Bin storage area has been indicated on the submitted plans. A condition requiring the applicant to provide evidence of a waste collection agreement (either a Council collection or private contractor) will be imposed as a condition of consent.
Soil and Erosion Control	A sediment and erosion control management plan will be required prior to works commencing. As the site is relatively flat, no significant erosion or stability issues exist.
Aboriginal Cultural	An AHIMS search of the subject land did not indicate the presence of any aboriginal cultural items or places. No

Heritage	further investigation is warranted.
----------	-------------------------------------

Table 3: Assessment against relevant DCP Subdivision Controls

Conditions have been included in the recommended terms of consent requiring the applicable Section 7.12 Development Contributions and headworks charges to be paid prior to the issue of Construction Certificate.

S4.15(1)(a)(iia) Provisions of any Planning Agreement.

Not applicable.

S4.15(1)(a)(iv) Any matters prescribed by the Regulations

Not applicable.

S4.15(1)(b) The likely impacts of the development including environmental impacts on both natural and built environments and social/economic impacts in the locality

Context and Setting

The subject land is located within the emerging Eagle View residential estate in Moore Creek, consisting generally of single dwellings on large allotments. The proposed child care centre is considered to be consistent in scale, design and amenity with the neighbouring development. The development incorporates architectural features and articulation to provide a contemporary built form that appropriately addresses the corner of Wedgetail Road, Nankeen Avenue and Sea Eagle Avenue.

Site Design and Internal Layout

The proposed child care centre has been designed in accordance with the design criteria outlined in the Child Care Planning Guideline.

The purpose-built facility will operate with a maximum capacity of 122 places with the following age groups:

- 0-2 years = 32 places;
- 2-3 years = 30 places; and
- 3-5 years = 60 places.

The service and administrative areas will include:

- seven indoor play rooms;
- cot rooms;
- administrative areas including staff rooms, meeting room and offices;
- kitchen;
- laundry;
- storerooms; and
- amenities.

The facility will also accommodate two outdoor play areas to the east and west of the site. The facility will provide a total of 414m² or 3.39m² of unencumbered indoor play area per child and 886m² or 7.26m² of unencumbered outdoor play area per child.

The facility has been designed to accord with the overarching design criteria outlined in the Child Care Planning Guideline as follows:

- the design responds to the context of the surrounding area by proposing an attractive one storey built form consistent with emerging residential low density residential area;
- landscaping and embellishment works are proposed to ensure that the landscape character of the site and immediate locality is respected;
- the proposed built form and materials used has been designed to be commensurate with the residential character of the immediate locality;
- the learning areas proposed provide a balanced mix of inclusive learning space for all students; and
- the development can deliver sustainable design features including natural ventilation and access to natural light to ensure artificial cooling and heating is minimised.

One new crossover and vehicular access point to and from the associated carpark is proposed from Wedgetail Road.

Access, Transport and Traffic

As this development is proposed within the Eagleview Estate Subdivision with future stages yet to be released, projected traffic flows along Wedgetail Road were extrapolated from the Traffic Impact Assessment (TIA) submitted with the subdivision development application. Wedgetail Road is projected to carry approximately 70% of the Eagleview Estate developed traffic (based on the traffic split adopted in the subdivision TIA), amounting to ~ 161 peak hour vehicle movements passing the proposed childcare entrance.

The submitted TIA assumed the proposed childcare centre would operate at 90% occupancy with the majority of trips originating from within the Eagleview Estate. Council Officers' assessment assumed peak occupancy and the majority of trips being external to the estate

(i.e., 60% of morning drop-off traffic is inbound to the estate and 60% of afternoon/evening pick-up is outbound traffic leaving the estate). The movements in and out of the site were assumed based on elevated trip generation rates from TRC studies of existing centres, rather than the RTA Guide to Traffic Generating Developments. Refer Table 4 below.

	RTA Guide to Traffic Generating Developments 2002 – Table 4.1	Childcare Centre Trip Generation Rates – TRC Review
No. of Licensed Places	122	
AM Vehicle Trip Rate	0.8 trips/child	1.4 trips/child
AM Trip Generation	88 peak vehicle trips per hour (45 trips TO and 43 trips FROM)	171 peak vehicle trips per hour (103 trips TO and 68 trips FROM)
PM Vehicle Trip Rate	0.7 trips/child	1.2 trips/child
PM Trip Generation	78 peak vehicle trips per hour (38 trips TO and 40 trips FROM)	146 peak vehicle trips per hour (58 trips TO and 88 trips FROM)

Table 4 - Regional Trip Generation Rates

It is acknowledged that the proposed development will result in an increase in traffic in the locality, however, the local road network has the capacity to accommodate the increased traffic volumes. No additional traffic mitigation measure or intersection treatments are required to accommodate the proposed development.

Parking

Onsite parking for a total of 25 vehicles within a new outdoor at-grade parking area including one accessible space is provided. As mentioned earlier in this report, this meets the DCP (Amendment No. 16) requirements. There are also available off street carparking spaces located along Wedgetail Road, Nankeen Avenue and Sea Eagle Avenue. The applicant/developer will be required to finance the extension of the footpath and pram ramps from Sea Eagle Avenue to Nankeen Avenue.

Privacy (Aural and Visual)

The development will be appropriately screened from adjoining neighbouring properties, which will mitigate the potential for both aural and visual impacts on privacy. The application was supported with the Noise Impact Assessment Report which was reviewed by relevant Council Officers. The report found that impact on the centre from road noise is acceptable.

The Noise Impact Assessment Report addressed potential acoustic issues by recommending the following fencing measures:

- Boundaries along outdoor play area 2 and the western boundary of the carpark– a 1.8m high acoustic barrier constructed of Colorbond (minimum 0.46mm BMT), lapped and capped timber, Hebel Powerpanel, masonry or retaining wall fence combination. Acoustic fencing will also be required along the site adjoining the residential lots of 6 Nankeen Avenue and 3 Sea Eagle Avenue, Moore Creek.

The operator will also need to prepare a Noise Management Plan which must include the following details:

- individual daily programs for both warmer and cooler months in order to regulate the total time spent outdoors and indoors. The program should be made publicly available to parents and neighbours;
- contact phone numbers for the overall facility manager or director should be made available to neighbours to facilitate communication and to resolve any neighbourhood issues that may arise due to operation of the childcare centre;
- details of the typical number of children anticipated to be present in the outdoor play area;
- procedure to ensure that crying children are taken inside the childcare centre building and comforted;
- details of plans and procedures to ensure that the behaviour of children is monitored and modified as required by adequately trained teachers and childcare workers, to assist in ensuring compliance with overall noise guidelines
- a procedure to ensure that parents and guardians are informed regarding the importance of noise minimisation when entering the site, and dropping off or picking up children;
- procedures as required to ensure that staff control the level of their voices while outside; and
- minimisation or control of any use of amplified music to ensure compliance with noise management guidelines.

Therefore, it is considered that the potential aural and visual impacts from the proposed development on neighbouring sites are acceptable and manageable subject to the recommended noise attenuation measures.

Views and Visual Impact

The proposed built form is not anticipated to negatively impact on views or result in any visual impacts on the immediate area or locality.

Heritage

There are no known items of heritage significance within or in the immediate area.

Overshadowing

The proposed new building is single storey in form, adequately setback from site boundaries and is not anticipated to result in any overshadowing or impact solar access to adjoining lots.

Water

The proposed consolidation of the lots will require consolidation of water services as only one water connection is to be provided to service the development. Internal hot and cold water plumbing associated with the development is to be approved as part of the Section 68 plumbing and drainage application lodged with Council.

Sewer

The proposed consolidation of lots will require consolidation of sewer junctions as only one sewer junction connection is to be provided to service the development. Internal sanitary drainage pipework associated with the development is to be approved as part of the Section 68 Plumbing and Drainage application lodged with Council.

Drainage

Any stormwater runoff produced by impervious surfaces is to be discharged to the allotted inter-allotment drainage pit. Relevant conditions for stormwater management have been recommended by Council's Development Engineering Division and imposed as conditions on the development consent.

Waste

The construction of the development will likely result in the production of both general, recyclable and potentially contaminated waste materials. General conditions pertaining to collection and disposal of waste, including handling of asbestos and contaminated soil has been included in the conditions of development consent.

Air and Microclimate

Dust suppression measures will be required during construction works.

Flora and Fauna

No vegetation removal is required to facilitate the development. The development will be landscaped and canopy trees will be planted throughout the site.

Bushfire and Flooding

The subject land is not located within bushfire prone or flood affected land.

Energy

The building associated with the development has incorporated passive design elements to improve energy efficiency and will also be subject to minimum Building Code of Australia (BCA) and National Construction Code (NCC) construction standards.

Noise and Vibration

An acoustic report has been submitted as part of the application. Subject to installation of recommended acoustic treatments (i.e., acoustic fencing etc.) and noise attenuation measures, the proposed development and ongoing use is considered to unlikely result in unacceptable noise to its surrounds. Relevant conditions have been imposed to manage construction noise and ongoing operation of the childcare centre to ensure that the amenity of surrounding residential area will not be impacted to an unacceptable degree.

Safety, Security and Crime Prevention

Relevant safety fencing and treatment of enclosures as required by the Childcare Planning Guidelines have been indicated on the submitted plans. The proposed carpark and external layout of the development has been designed to minimise blind spots and are clearly visible from the road, thus providing passive surveillance from within the facility and from the street. The development design provides a clear distinction between, and barriers to private spaces. The proposed development is designed to allow casual surveillance of the external play areas from internal play areas. Adequate lighting will be provided to the parking area and

building entries. Access from the car park to the facility is direct and safe for both staff and parents. The development is oriented with the entrance clearly visible.

Social Impact

The provision of accessible and adequate childcare within the local community is likely to result in a positive social impact, enhancing social connections and cohesiveness.

Economic Impact

The proposed development will provide for employment during the construction and operation of the development. Moreover, it will provide an essential service to the residents of Eagle View residential area as the availability of childcare will allow parents and caretakers to undertake employment elsewhere. Overall, the proposed development is considered to result in positive economic impacts.

Cumulative Impacts

Subject to recommended conditions of development consent to mitigate any impacts to the surrounding community, there are no noted impacts of a social, environmental or economic nature which are anticipated to have a detrimental impact upon the locality as a result of the development.

S4.15(1)(c) The Suitability of Site for the Development

The subject site is considered suitable for the proposed development. The site is zoned R2 Low Density Residential and a childcare facility is permitted with consent. The proposal meets the objective of the zone which is to enable other land uses that provide facilities or services to meet the day to day needs of residents. The proposed built form and scale of the development is consistent with other existing development within the surrounding locality and would be unlikely to present a land use conflict with the surrounding locality. Relevant conditions regarding potential for generation of offensive noise will be implemented within the development consent so as to mitigate impacts on neighbouring properties.

S4.15(1)(d) Any Submissions Made in Accordance with the Act or Regulations

The application was publicly notified from 18 July 2024 to 2 August 2024. Ten submissions (nine objections, one of support) were received by Council during this period.

The submissions are **ENCLOSED**, refer **CONFIDENTIAL ENCLOSURE 1**.

The issues raised in the submissions are considered in Table 5 below.

Issue	No. of submitters	Response
<p>Traffic</p> <p>The following traffic concerns were raised:</p> <ul style="list-style-type: none"> • Traffic congestion • Insufficient carparking spaces – 25 carparking spaces to 20 staff leading to off-street parking • Unsafe access/egress point on Wedgetail Road, blind spots • Increased traffic will be unsafe for children • Wedgetail Road will be unsafe for traffic with parked cars 	<p>9</p>	<p>It is acknowledged that the proposed development will result in an increase in traffic in the locality, however, the local road network has the capacity to accommodate the increased traffic volumes. No additional traffic mitigation measure or intersection treatments are required to accommodate the proposed development.</p> <p>The carpark design and location of the access/egress point has been reviewed by Council's Development Engineering Division and it is satisfied that there is sufficient space for vehicles to manoeuvre and circulate within the site, compliant with Australian Standard (AS/NZS) 2890.1 Parking Facilities – Off-street parking and AS 2890.6 Parking Facilities – Off-street parking for people with disabilities.</p> <p>A total of 25 carparking spaces will be provided including staff carparking, which meets the requirements of the DCP. It is considered that any visitor/parent carparks utilised will mostly consist of short term stay for pickups and drop-offs. The operator will also be required to prepare a Childcare Plan of Management which is developed for the day-to-day operations of the centre to minimise any adverse effects upon neighbours, including a Traffic and Parking Management Plan. The applicant has indicated that all staff carparking must occur within the carparking area. Therefore, any off-street carparking will be utilised for short term stay mainly for parent/carer drop-offs/pickups.</p> <p>The applicant/developer will be required to finance the extension of the footpath and pram ramps connecting Sea Eagle Avenue to Wedgetail Road and Nankeen Avenue to ensure safe pedestrian access to and from the proposed development. Pedestrian footpaths from the carpark to the centre will also be provided.</p> <p>The operational capacity of Wedgetail Road will not be compromised with on-street carparking.</p>
<p>Loss of amenity</p> <ul style="list-style-type: none"> • Noise levels from children playing 	<p>9</p>	<p>The application was supported with a Noise Impact Assessment Report which was reviewed by Council Officers. The report addressed potential acoustic issues by</p>

<p>outdoors and additional traffic noise</p> <ul style="list-style-type: none"> • Children throwing items over boundary fencing • Light pollution from cars entering and exiting the carpark 	<p>1</p> <p>1</p>	<p>recommending the following noise attenuation measures:</p> <ul style="list-style-type: none"> • Boundaries along outdoor play area 2 and western boundary of the carpark will require a 1.8m high acoustic barrier constructed of Colorbond (minimum 0.46mm BMT), lapped and capped timber, Hebel Powerpanel, masonry or retaining wall fence combination. Acoustic fencing will also be required to be installed along the site adjoining the residential lots of 6 Nankeen Avenue and 3 Sea Eagle Avenue, Moore Creek. <p>The operator will also need to prepare a Noise Management Plan which must include the following details:</p> <ul style="list-style-type: none"> • Individual daily programs for both warmer and cooler months in order to regulate the total time spent outdoors and indoors. The program should be made publicly available to parents and neighbours; • contact phone numbers for the overall facility manager or director should be made available to neighbours to facilitate communication and to resolve any neighbourhood issues that may arise due to operation of the childcare centre; • details of the typical number of children anticipated to be present in the outdoor play area; • procedure to ensure that crying children are taken inside the childcare centre building and comforted; • details of plans and procedures to ensure that the behaviour of children is monitored and modified as required by adequately trained teachers and childcare workers, to assist in ensuring compliance with overall noise guidelines • a procedure to ensure that parents and guardians are informed regarding the importance of noise minimisation when entering the site, and dropping off or picking up children; • procedures as required to ensure that staff control the level of their voices while outside; and • minimisation or control of any use of amplified music to ensure compliance
--	-------------------	--

		<p>with noise management guidelines.</p> <p>The report found that the impact on the centre from road noise is acceptable.</p> <p>Therefore, the impact of the proposal is considered to be acceptable subject to the implementation of the recommended noise attenuation measures.</p> <p>The operator will also be required to prepare a Childcare Plan of Management which is developed for the day-to-day operations of the centre to minimise any adverse effects upon neighbours. The Childcare Plan of Management must include, but not limited to, the following:</p> <ul style="list-style-type: none"> • Staffing/parents/children arrival and departure procedures (Drop off and pick up procedures); • Day to Day Operations Policy; • Protocol for External Maintenance/Garden Staff; • Noise Management Plan; • Traffic and Parking Management Plan; • Security and Safety Plan; and • Any requirements of the Education and Care Services National Regulations. <p>The operator of the centre will need to adhere to the Childcare Plan of Management which will address issues related to items being thrown over boundary fencing, traffic impacts such as light pollution from cars entering and exiting the carpark. Hours of operation will be restricted from 7.00 am to 6.30pm Mondays to Fridays.</p>
<p>Property values</p> <p>Devaluation of property values due to amenity, noise and traffic impacts.</p>	2	<p>Devaluation of property values is not a relevant consideration under the <i>Environmental Planning and Assessment Act 1979</i>.</p>
<p>Non-residential restriction on use of land</p> <p>The development is not consistent with the residential use only restriction applicable to</p>	7	<p>The subject lots Lot 110 DP 1279925, Lot 111 DP 1279925 and Lot 1004 DP 1295121; are burdened by a Section 88b restriction to user registered on the land, which restricts any building erected on the lots to be used for any other purpose other than a single dwelling house. This restriction is one of several imposed by the developer of the Eagle View</p>

<p>the Eagle View Estate.</p> <p>Developer has not been upfront with plans for the proposed child care centre to landowners and potential buyers</p>		<p>Residential Estate for the purpose of establishing a certain look and character for the neighbourhood; and the developer is empowered to release, vary or modify the restrictions burdening the subject lots. The applicant has provided signed consent to vary the restriction as part of the application.</p> <p>Moreover, Clause 1.9A of the TRLEP provides for the suspension of covenants, agreements and instruments imposed by a developer to enable development on land in any zone to be carried out in accordance with the TRLEP. This means that there is no legislative requirement on Council to enforce the restriction.</p> <p>Council is unable to comment on the matter of the estate developer not disclosing any plans for the proposed childcare centre. The subject land is zoned R2 Low Density Residential and a centre based childcare facility is permissible with development consent pursuant to the TRLEP. Upon receipt of a valid Development Application, Council is obliged to assess the application on its merits.</p>
<p>Maintenance</p> <p>Will the centre be maintained to a high standard (landscaping etc.)?</p>	<p>1</p>	<p>The operator will also be required to prepare a Childcare Plan of Management which is developed for the day-to-day operations of the centre to minimise any adverse effects upon neighbours. The Childcare Plan of Management also includes requirements and protocols for External Maintenance/Garden Staff related to the centre.</p>
<p>Site not suitable</p> <p>The site is located within a residential area and not suitable for the proposed childcare centre</p>	<p>5</p>	<p>The subject land is zoned R2 Low Density Residential and a centre based childcare facility is permissible with development consent pursuant to the TRLEP. The proposed child care centre is considered to be consistent in scale, design and amenity of the neighbouring development. The development incorporates architectural features and articulation to provide a contemporary built form that appropriately addresses the corner of Wedgetail Road, Nankeen Avenue and Sea Eagle Avenue. The application was supported with a Noise Impact Assessment Report which was reviewed by Council Officers and it is considered that the proposed development is acceptable in a residential area subject to the implementation of the recommended noise attenuation measures.</p>

Table 5: Responses to the issues raised in the submissions

S4.15(1)(e) The Public Interest

The public interest has been considered as part of the assessment of DA2025-0011. The provision of accessible and adequate child care facilities in proximity to residential development meets a need within the Tamworth Region, is considered to result in a positive outcome for the community and is therefore in the public interest.

CONCLUSION:

This report provides an assessment of the development with regard to all relevant matters listed under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and issues raised in the public submissions.

The proposed development is consistent with the applicable environmental planning instruments and it is considered that the development will provide a positive contribution to the site and the community. As a consequence, it is recommended that Council approve DA2025-0011 subject to the recommended conditions of development consent.

(a) Policy Implications

The development is a permissible use within the R2 zone, meets the objectives of the zone and complies with Council's Development Control Plan provisions.

(b) Financial Implications

Nil

(c) Legal Implications

Nil

(d) Community Consultation

Consultation with the community has been undertaken in accordance with Council's Community Participation Plan 2019. The objections received have been addressed as a part of the assessment of the Development Application, as detailed in an earlier section of this report.

(e) Delivery Program Objective/Strategy

Focus Area 2 – A Liveable Built Environment

8 INFRASTRUCTURE AND SERVICES

8.1 FUTURE USE OF 'THE RANCH' - 226 OXLEY LANE WESTDALE

DIRECTORATE: WATER AND WASTE

AUTHOR: Daniel Coe, Manager - Water and Environmental Operations

RECOMMENDATION

That in relation to the report "Future Use of 'The Ranch' - 226 Oxley Lane Westdale", Council:

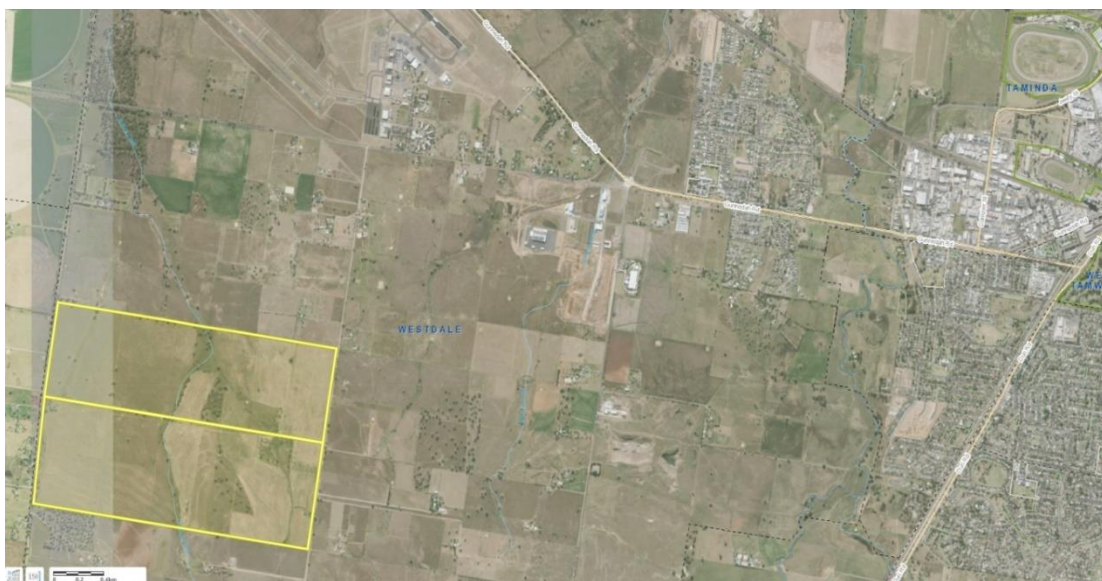
- (i) undertake an Expression of Interest process for the future use of the property; and***
 - (ii) request the Director Water and Waste submit a report to Council with the results of the Expression of Interest Process.***
-

SUMMARY

The purpose of this report is to seek direction from Council regarding the future use of the property known as 'The Ranch', located at 226 Oxley Lane, Westdale.

COMMENTARY

Council acquired the property 'The Ranch' at 226 Oxley Lane, Westdale as part of the establishment of the Tamworth Effluent Reuse Farm (TERF). The property consists of two land parcels with a total land area of approximately 346 hectares. A plan showing of the location of property is provided below.



The use of the property was included in the initial Project Agreement for the TERF i.e., it was included for use by the operating contractor as part of the initial ten-year operating term. The initial intended property use was to provide a land area that could value add to the TERF operations, for example, feedstock produced at the TERF could be used to increase livestock values prior to sales. The land was not well utilised for this purpose during the initial TERF operating term as other product markets were available for the operator including dairy and livestock feed supply markets.

The Project Agreement (operating contract) for the TERF was retendered during 2020/2021. Council as part of this tender removed the inclusion of 'The Ranch' from the TERF Project Agreement to allow greater flexibility for the land to be used for alternative purposes.

Since 2021, the property has been leased following an Expression of Interest (EOI) process. The most recent lease ended in early 2024, and the land is now available for Council to consider future use options.

There are a number of potential land use options for Council in the long term, including disposing of the property, but at this time it is considered there are advantages to maintaining ownership of the property to allow Council more flexibility to consider initiatives which may include use of all or part of the property. For example, the proximity to the Westdale Wastewater Treatment Plant (WWTP), Effluent Reuse Farm and Industrial water customers, could see part of property used in advanced effluent treatment processes. Given the business case for a potential Purified Water Facility within Tamworth is currently being developed with the NSW Government, it is recommended that Council retain property ownership until the outcome of the business case is known, expected to be during 2025.

If Council agreed maintaining current ownership of the property was preferred at this time, given Council incurs costs through the ownership and maintenance of the property, it would be recommended Council consider a short-term lease, licence, agistment or other agreement

to offset these costs. If Council agreed with this recommendation, then a public EOI process would be undertaken 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 and aligns with other initiatives currently being investigated;
- 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 lessee’s 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 EOI 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. The property was purchased from Council’s sewer reserves and is a sewer asset. All operational costs are funded from the sewer reserve and all income would be allocated to the sewer reserve.

(c) Legal Implications

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

(d) Community Consultation

An EOI for the potential lease of the property, as detailed in the body of the report, would be advertised.

(e) Delivery Program Objective/Strategy

Focus Area 9 – Open and Collaborative Leadership

8.2 TAMWORTH REGIONAL LOCAL TRAFFIC COMMITTEE MEETING - 6 NOVEMBER 2024

DIRECTORATE: REGIONAL SERVICES

**AUTHOR: Graeme McKenzie, Manager - Strategy, Assets and Design
Steven Marshall, Strategy, Assets and Design Engineer**

**4 ANNEXURES ATTACHED
1 ENCLOSURES ENCLOSED**

RECOMMENDATION

That in relation to the report “Tamworth Regional Local Traffic Committee Meeting - 6 November 2024”, Council:

- (i) approve the proposed signage and line marking plan for the Carthage Street Pavement Rehabilitation project;*
- (ii) approve the Barraba Memorial Clock Centenary Event and the associated road impacts along Queen Street and Maude Street in Barraba from 9.00am to 1.00pm on Monday 11 November 2024;*
- (iii) approve the line marking and signage plan associated with the new Kootingal Multi-Purpose Centre car park; and*
- (iv) approve the proposed concrete splitter islands, new painted median and associated signage and line marking on Robert Street, South Tamworth in accordance with the design.*

SUMMARY

The purpose of this report is to advise Council of the four recommendations made by the Tamworth Regional Local Traffic Committee (the Committee) at the meeting held on 6 November 2024.

COMMENTARY

The minutes from the Committee meeting held on 6 November 2024, are **ENCLOSED**, refer **ENCLOSURE 1**. It is recognised that two items (113/2023 and 114/2023) within this report are being considered by Council post their completion.

111/2024 - Signage and Linemarking Plan – Carthage Street, East Tamworth

Tamworth Regional Council is planning to undertake a pavement rehabilitation project along Carthage Street, East Tamworth, starting February 2025.

As shown below in Figure 1, the rehabilitation works are planned to be completed between Bligh Street and Kitchener Street.

The works are currently proposed to be completed in two stages:

- Stage 1 (Blue): Brisbane Street to Kitchener Street (February 2025 to July 2025); and
- Stage 2 (Red): Bligh Street to Brisbane Street (dates TBC).

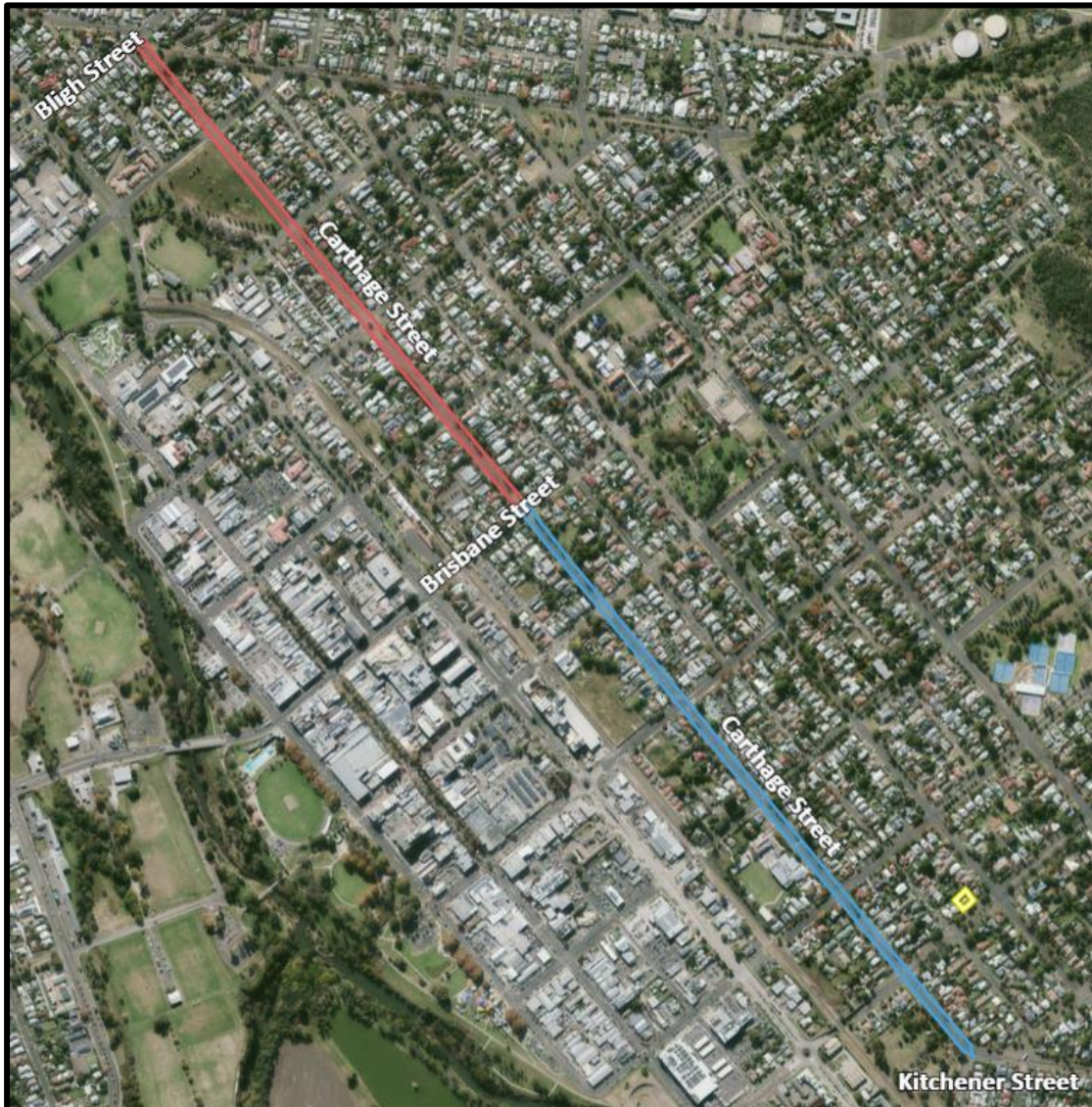


Figure 1: Proposed pavement rehabilitation project on Carthage Street, East Tamworth

The project will be completed in accordance with the **ATTACHED** signage and line marking plan, refer **ANNEXURE 1**.

Some of the main changes proposed along Carthage Street include:

- Edge lines (EL1), single broken centre lines (DL1), double two-way barrier lines (BL2) and continuity lines (CL1) being installed along Carthage Street.
- A new channelised right (CHR) hand turn lane at the White Street and Carthage Street intersection. The CHR will provide suitable queue capacity for north bound vehicles waiting to turn right onto Carthage Street, whilst safely providing a through lane for north bound vehicles on White Street.
- Changing the parking configuration on the southern side of Carthage Street, between Fitzroy Street and White Street. Council is proposing to change the configuration from 60 degree “rear to kerb” parking to parallel parking as it will remove a deviation in the road that exists at the Fitzroy Street and Carthage Street intersection. The proposed change will result in the loss of 14 parking spaces.
- The repositioning of the disabled parking bays directly in front of North West Eyes to enable the use of the existing gutter bridge for smooth access onto the kerb.

- Installing new median traffic islands, kerb blisters and kerb ramps at the following intersections to improve the safety for pedestrians when attempting to cross Carthage Street:
 - Bligh Street and Carthage Street intersection;
 - Bourke Street and Carthage Street intersection; and
 - Roderick Street and Carthage Street intersection.

The installation of these items during the pavement rehabilitation will depend on how the project tracks financially. These items may require separate funding through external grant opportunities to be installed.

During the Committee meeting, Transport for NSW (TfNSW) identified an error with the design set relating to the intersection of White Street and Carthage Street. The design showed the intersection control being changed to Give Way. This was deemed incorrect and the design had to be updated to reflect the existing Stop sign arrangement before approval by Council.

COMMITTEE RECOMMENDATION: Pending the correction requested by TfNSW, the Committee members unanimously support the proposed signage and line marking plan for the Carthage Street Pavement Rehabilitation project.

113/2024 - Barraba Memorial Clock Centenary Celebration

Council has been approached by the Barraba RSL committee regarding the upcoming Barraba Memorial Clock Centenary Celebration at the Memorial clock. The clock is located within the roundabout at the intersection of Queen Street and Maude Street.

Details for the proposed event are shown below;

- Event location: Barraba War Memorial Clock, Queen Street Barraba.
- Date: Monday 11 November 2024.
- Event time: 9.00am to 1.00pm (inclusive of set up and pack down periods).
- Roads affected:
 - Queen Street (from Alice to Savoy Street); and
 - Maude Street (from Clifton to Cherry Lane).
- Detour: Proposed via Henry Street, Fitzroy Street and Bridge Street.

A Road Occupancy Licence (ROL) has been applied for – application number 2356012.

The Traffic Guidance Scheme can be found **ATTACHED**, refer **ANNEXURE 2**.

COMMITTEE RECOMMENDATION: the Committee members unanimously support the Barraba Memorial Clock Centenary Event and the associated road impacts along Queen Street and Maude Street in Barraba from 9.00am to 1.00pm on Monday 11 November 2024.

114/2024 - Kootingal Multi-Purpose Centre Carpark – Denman Avenue, Kootingal

In March 2024, Council commenced the redevelopment of the Multi-Purpose Centre on Denman Avenue in Kootingal. As part of the redevelopment, a new formalised car park, with 17 parking spaces is proposed to be constructed and open to the public in November 2024. The location of the car park is shown in Figures 2 and 3 below.

As shown within the **ATTACHED** signage and line marking plan, refer **ANNEXURE 3**, there are three accessible parking spaces proposed. R5-10 (L) and R5-10 (R); single panel (parking with user limitations) signs and pavement markings will be required.

There are no time limits proposed against the parking spaces.



Figure 2: Location of proposed car parking at the Multi-Purpose Centre in Kootingal



Figure 3: Location of the proposed car park.

COMMITTEE RECOMMENDATION: the Committee members unanimously support the line marking and signage plan associated with the new Kootingal Multi-Purpose Centre car park.

60/2024 – Road Safety Program (Road Safety Improvement) - Robert Street, South Tamworth

Council, has been successful in obtaining funding under the Towards Zero Safer Roads Program for the installation of two traffic islands and a painted median on a moderately sharp curve along Robert Street (between David Street and Coromandel Street).

As indicated below in Figure 4 with small plus sign symbols, the curve in question has seen multiple traffic accidents within a recent five-year period (1 July 2018 to 30 June 2023). These incidents include:

- Head on – 2 February 2022 – Resulting in one serious injury and one moderate injury;
- Off road left on right hand bend – 27 April 2022 – Resulting in one moderate injury;

- Head on – 30 November 2022 – Resulting in one serious injury; and
- Off road right into object – 09 January 2023 – Towaway only.



Figure 4: Crash cluster on Robert Street, South Tamworth.

A detailed design, has been developed for the site, including:

- two new concrete splitter islands;
- a new painted median (chevron marked) between the splitter islands;
- No Stopping (R5-400n) signs on both sides of Robert Street;
- Keep Left (R2-3[L]) signs; and
- BL2 line marking on both approaches.

The existing school zone pavement marking, including dragons' teeth, will be recentred within the east bound traffic lane.

A copy of the design has been **ATTACHED**, refer **ANNEXURE 4**.

Community consultation with the affected residents along Robert Street (between David Street and Coromandel Street) is to be completed prior to commencing construction.

COMMITTEE RECOMMENDATION: the Committee members unanimously support the proposed concrete splitter islands, new painted median and associated signage and line marking in accordance with the design.

(a) Policy Implications

Nil

(b) Financial Implications

111/2024 – Shall be funded by the Council's Asset Renewal budget.

113/2024 – Shall be funded by the event organisers.

114/2024 – Shall be funded by the Civil Construction reserve.

60/2024 – Shall be funded by the Towards Zero Road Safety Program.

(c) Legal Implications

Nil

(d) Community Consultation

111/2024 – Any businesses or residents directly affected by the works will be communicated with before commencement.

114/2024 – Any businesses or residents directly affected by the works will be communicated with before commencement.

60/2024 – Community consultation with the affected residents along Robert Street (between David Street and Coromandel Street) is to be completed prior to commencing construction.

(e) Delivery Program Objective/Strategy

Focus Area 5 – Connect our Region and its Citizens

9 GOVERNANCE, STRATEGY AND FINANCE

9.1 SCHEDULE FOR COUNCIL MEETINGS FOR 2025

DIRECTORATE: OFFICE OF THE GENERAL MANAGER
AUTHOR: Lisa May, Coordinator Governance and Executive Services

RECOMMENDATION

That in relation to the report “Schedule of Council Meetings for 2025”, Council fix the dates and times for Council Meetings for 2025 as follows:

	Time	Jan 2025	Feb 2025	Mar 2025	Apr 2025	May 2025	Jun 2025	July 2025	Aug 2025	Sept 2025	Oct 2025	Nov 2025	Dec 2025
Ordinary Council	6:30	-	11 th	11 th	8 th	13 th	10 th	8 th	12 th	9 th	14 th	11 th	2 nd
	pm	-	25 th	25 th	29 th	27 th		22 nd	26 th	23 rd	28 th		16 th

(i)

SUMMARY

The purpose of this report is to confirm the dates and times for the Council Meetings for the 2025 calendar year. Council may change the dates by resolution.

COMMENTARY

Section 365 of *Local Government Act 1993*, states:

“The Council is required to meet at least 10 times each year, each time in a different month”.

Tamworth Regional Council’s Code of Meeting Practice 2.1.3, allows for changes to dates and times for Meetings:

Council may, by resolution, vary the time, date and place of Ordinary Meetings should circumstances exist to warrant the change in time, date or location.

However, Ordinary Meetings of Council will be held on the second and fourth Tuesday of each month, commencing at 6:30pm at the Lands Building Nemingha Room, 25-27 Fitzroy Street, Tamworth NSW.

Typically, there are no Council Meetings held in January and only one Council Meeting held in December.

The first Ordinary Council Meeting for 2025 is proposed on Tuesday, 11 February 2025.

Council relies on the statutory role of the Mayor as stated in Section 226 (d) of the *Local Government Act 1993*, “to exercise, in cases of necessity, the policy-making function of the governing body of the council between Meetings of the council”, should the exercise of this role of the Mayor be required during the month of January.

Council also relies on the statutory role of the General Manager as stated in Section 335 (a) of the *Local Government Act 1993*, “to conduct the day-to-day management of the Council in accordance with the strategic plans, programs, strategies and policies of the Council”.

The report lists two Meetings for December, being 2 December (first Tuesday of the month to compensate for missing the second meeting in November) and the 16 December (third Tuesday of the month).

A copy of the proposed 2025 Schedule of Dates, is listed below:

	Time	Jan 2025	Feb 2025	Mar 2025	Apr 2025	May 2025	June 2025	July 2025	Aug 2025	Sept 2025	Oct 2025	Nov 2025	Dec 2025
Ordinary Council	6:30	-	11 th	11 th	8 th	13 th	10 th	8 th	12 th	9 th	14 th	11 th	2 nd
	pm	-	25 th	25 th	29 th	27 th		22 nd	26 th	23 rd	28 th		16 th

(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

Nil

(d) Community Consultation

Public Notices advising of the dates and times of the Council Meetings (and/or Extraordinary) will be placed on the Tamworth Regional Council website.

(e) Delivery Program Objective/Strategy

Focus Area 9 – Open and Collaborative Leadership.

9.2 2025 AUSTRALIA DAY EVENTS

DIRECTORATE:

OFFICE OF THE GENERAL MANAGER

AUTHOR:

Lisa May, Coordinator Governance and Executive Services

RECOMMENDATION

That in relation to the report “2025 Australia Day Events ”, Council nominate Councillors to attend and participate in the Australia Day celebrations and activities at:

Barraba ***Cr*** _____
Kootingal ***Cr*** _____
Manilla ***Cr*** _____
Nundle ***Cr*** _____
Tamworth ***Mayor Russell Webb***
Cr _____

SUMMARY

The purpose of this report is to advise Council on the progress for the planning of the 2025 Australia Day activities throughout the region

COMMENTARY

In 2025, 26 January will fall on a Sunday – the last Sunday of the Country Music Festival. Council has been working with various groups and a Section 355 Committee to organise and conduct Australia Day activities throughout the region.

As the details are confirmed this will be communicated to the respective Councillors and preparations made for their attendance. Council will promote final information to the community when all event details are confirmed.

It is expected there will be changes to some of the activities however, at the time of this report the following is known:

Barraba

Award ceremony, BBQ and live entertainment coordinated by Council staff.

6.00pm at the Barraba Golf Course, Trevallyn Road Barraba.

Kootingal

Aussie breakfast followed by Australia Day Address and games including thong toss, pumpkin bowls, gumboot toss Coordinated by the Lions Club of Kootingal and District

8.00am to 10.00am (8.00am breakfast 8.45am Australia Day Address) to be held at Memory Park, Denman Avenue, Kootingal. A Gold coin donation is required for breakfast

Manilla

Breakfast, Awards Ceremony and live entertainment coordinated by the Manilla Matters S355 Committee and Council staff.

8.00am at Pioneer Park, Manilla Street, Manilla – 8.00am breakfast. 9.00am Awards ceremony

Nundle

Awards Ceremony and live entertainment including emerging Artists to be coordinated by Council staff.

6.30pm at the Nundle Bowling Club, 1 Crosby Street, Nundle.

Tamworth

War Memorial Town Hall

Organised by Council staff and the Australia Day Working Group.

7:00am – Church Service

8:00am – BBQ Breakfast

9:00am – Australia day Awards and Citizenship Ceremony

Bicentennial Park, Kable Avenue

Organised by Council staff.

7:00pm – “Celebrate Australia” Concert

9.30pm – Fireworks

Bendemeer

Bendemeer Hotel will be celebrating Australia Day which includes live entertainment, walk-up acts from 12.00pm, homemade meat pies available with the Bistro open from 11.30am to 2.00pm – with no official function.

(a) Policy Implications

Nil

(b) Financial Implications

Expenditure for these events is allocated in the 2024/2025 Annual Operational Plan and Budget.

(c) Legal Implications

In an instrument of approval under subparagraph 12(2)(a)(iv) of the *Australian Citizenship Act 1948*, the Minister has approved that the Mayor of a city, municipality or town and the General Manager of a Council are authorised to be presiding officers for citizenship ceremonies. For this reason, the Mayor (or General Manager in the Mayor’s absence) is invited to perform the ceremony in Tamworth on Australia Day.

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

Focus Area 7 – Celebrate our Cultures and Heritage

Focus Area 9 – Open and Collaborative Leadership

9.3 COUNCIL INVESTMENTS NOVEMBER 2024

DIRECTORATE: OFFICE OF THE GENERAL MANAGER
AUTHOR: Stuart Brandon, Statutory Accountant
Robyn Barnes, Accountant

1 ANNEXURES ATTACHED

RECOMMENDATION

That in relation to the report “Council Investments November 2024”, Council receive and note the report.

SUMMARY

In accordance with *Local Government (General) Regulation 2021*, Clause 212, the purpose of this report is to provide Council with a register of investments held as at 26 November 2024, and provide Responsible Accounting Officer certification that investments comply with the *Local Government Act 1993*, *Local Government (General) Regulation 2021* and Council's Investment Policy. The register and accompanying certification can be found **ATTACHED**, refer **ANNEXURE 1**.

COMMENTARY

The register **ATTACHED**, refer **ANNEXURE 1** shows Council's cash and investment holdings as at 26 November 2024.

Australian 10-year bond yields fell 9bps in the week ending 22 November 2024. Investors see the first rate cut by the Reserve Bank of Australia (RBA) as likely to occur in May 2025, with the minutes from the RBA's November meeting noting that more than one good quarterly outcome is needed for the RBA to be confident that the fall in inflation is sustainable. Matters of interest during the first week of December will be inflation data for October and the release of the first quarterly indicators of economic activity from the September quarter.

During the month, Council's portfolio performed above the industry average, returning 5.14% against the three-month Bank Bill Swap rate (3mBBSW) of 4.42%.

(a) Policy Implications

All of Council's investments are held in accordance with the Tamworth Regional Council Investment Policy.

(b) Financial Implications

Nil

(c) Legal Implications

All of Council's investments are held in accordance with the Tamworth Regional Council Investment Policy, which accords with the requirements of:

- *Local Government Act 1993* – Section 625;
- *Local Government Act 1993* – Order (of Minister) dated 16 November 2000; The Trustee Amendment (Discretionary Investments) Act 1997 – Sections 14A (2), 14C (1) and 2;
- *Local Government (General) Regulation 2021* – Clauses 212; and
- *Local Government Code of Accounting Practice & Financial Reporting* – Update No 15 dated June 2007.

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

Focus Area 9 – Open and Collaborative Leadership

9.4 ANNUAL OPERATIONAL PLAN 2024/2025 BUDGET VARIATION REPORT - NOVEMBER 2024

DIRECTORATE: CORPORATE AND GOVERNANCE

AUTHOR: Laura Mills, Corporate Accountant

Reference: Item to Ordinary Council 25 June 2024 - Minute No 148/24

1 ANNEXURES ATTACHED

RECOMMENDATION

That in relation to the report “Annual Operational Plan 2024/2025 Budget Variation Report - November 2024”, Council note and approve the variations to the existing budget as listed in ATTACHED refer ANNEXURE 1 to the report.

SUMMARY

This report seeks Council approval for budget variations identified during November 2024, for which there has been no previous specific report or approval.

COMMENTARY

Council adopted the original budget included in the Annual Operational Plan for 2024/2025 at the Ordinary Meeting of Council held 25 June 2024. Any changes to the budget must be approved by Council at a later ordinary meeting. The budget forms the basis for future forecasts and the legal authority for staff to commit expenditures. Constant monitoring and updating of the budget is important for sound financial management.

Readers of this report are reminded that its contents should not be viewed in isolation. Quarterly Budget Review Statements provide additional revised information for budget forecasts and actual year-to-date results.

During the month of November, Council received multiple new grants, including \$28,796 from Regional Arts NSW for the exhibition Overhead and Underneath at the Art Gallery. A grant was received from the Department of Primary Industries and Regional Development for a Summer Holiday Break Program, and \$10,000 was received from National Australia Day Council Limited for Australia Day 2025 Community Events. Transport NSW awarded a grant to Tamworth Regional Council for the amount of \$152,000 under Round 2 of the Towards Zero Safer Roads Program

An additional amount of \$14,071 was requested for the Kootingal Hall Multi-Purpose Centre, and a further \$40,000 was contributed from the general fund towards the sewer lead in mains for Warwick, Bylong and Smiths Roads.

The airport recently completed three capital jobs, all of which came under budget and funds were returned to the Airport Reserve. A new project is being undertaken to develop an Aviation website for Tamworth Regional Airport. The Pilot Training Facility has also added a new budget line for promotional items, mainly to develop signage and branding for the International Pilot Training Facility.

November 2024 Budget Variations

Description	Budget Variation	Operating Income	Operating Expenses	Capital Income	Capital Expenses
Directorate Management – Creative Communities & Experience	0	-28,796	28,796	0	0
Community Safety	0	-6,200	6,200	0	0

& Wellbeing					
Future Communities	0	-10,000	10,000	0	0
Airport & Aviation	-67,016	0	20,000	0	-87,016
Pilot Training Facility	15,000	0	15,000	0	0
Project Costing	14,071	0	0	-152,000	166,071
Water & Wastewater	40,000	0	0	0	40,000
TOTAL	2,055	-44,996	79,996	-152,000	119,055

Black budget variation will *reduce* Council's forecast operating result and/or bank account

Green budget variation will **increase** Councils forecast operating result and/or bank account

(a) Policy Implications

Nil

(b) Financial Implications

The variations included in the report have the following impact on forecast results for 2024/2025 by fund of:

Fund	Operating Income	Operating Expenses	Capital Income	Capital Expenses
General	-44,996	79,996	-152,000	119,055
Water	0	0	0	0
Sewer	0	0	0	0
Total	-44,996	79,996	-152,000	119,055

(c) Legal Implications

This report is in compliance with the following sections of the *Local Government (General) Regulation 2021*:

- 211 authorisation of expenditure; and
- 202 Responsible Accounting Officer to maintain system for budgetary control.

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

Focus Area 9 – Open and Collaborative Leadership

10 COMMUNITY SERVICES

Nil

11 REPORTS TO BE CONSIDERED IN CLOSED COUNCIL

RECOMMENDATION

That the confidential reports as listed be considered in a Meeting closed to the public in accordance with Section 10A(2) of the Local Government Act 1993.

12.1 PROPOSED LEASE OF PART INTERNATIONAL FLIGHT TRAINING TAMWORTH (IFTT) FACILITY - TAMWORTH REGIONAL AIRPORT

DIRECTORATE: OFFICE OF THE GENERAL MANAGER
AUTHOR: Nicholas Hawkins, Commercial Property Officer
Billy Gleeson-Barker, Manager Aviation Precinct

Reference: Item 12.8 to Ordinary Council 13 August 2024 - Minute No. 226/24

The Council will determine this matter in part of the Meeting closed to the public pursuant to Section 10A(2) (c)&(d)i of the Local Government Act 1993 on the grounds that the matter and information is information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business and commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

SUMMARY

The purpose of this report is to seek Council's authorisation to enter a lease agreement and licence agreement with the party identified in the body of this report for part of the International Flight Training Tamworth Facility at the Tamworth Regional Airport.

12.2 PROPOSED LEASE OF BAR AREA AT THE INTERNATIONAL FLIGHT TRAINING TAMWORTH (IFTT) FACILITY

DIRECTORATE: OFFICE OF THE GENERAL MANAGER
AUTHOR: Nicholas Hawkins, Commercial Property Officer

The Council will determine this matter in part of the Meeting closed to the public pursuant to Section 10A(2) (c)&(d)i of the Local Government Act 1993 on the grounds that the matter and information is information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business and commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

SUMMARY

The purpose of this report is to seek Council's authorisation to negotiate and enter into a lease agreement with the party identified in the body of this report for the Bar Area at the International Flight Training Tamworth (IFTT) Facility within the Tamworth Regional Airport precinct.

12.3 TENDER T036-2025 PRINTING AND DISTRIBUTION OF RATES, WATER AND ANCILLARY NOTICES, AND ASSOCIATED PAYMENT GATEWAY FACILITY SERVICES

DIRECTORATE: OFFICE OF THE GENERAL MANAGER

AUTHOR: **Hannah Allwood, Accountant**
Seon Millsted, Revenue Accountant

2 CONFIDENTIAL ENCLOSURES ENCLOSED

The Council will determine this matter in part of the Meeting closed to the public pursuant to Section 10A(2) (c)&(d)i of the Local Government Act 1993 on the grounds that the matter and information is information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business and commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

SUMMARY

Council's existing contract (T122-2018) for the provision of printing, distribution and related payment gateway services for notices is currently in the second of its one-year extensions (three in total). This current extension ends on 30 June 2025.

Rather than exercising the third and final one-year extension of the existing contract, it was determined advantageous to advertise this tender in preparation for the Technology Blueprint transition from CI to CiAnywhere from 1 July 2025.

Engaging a new tenderer from 1 July 2025 will create efficiencies in onboarding the service provider into the new Tech1 environment and minimise potential disruptions if the existing contract was maintained for an additional year extension but then a new contractor needed to be engaged from 1 July 2026, which would require onboarding to CiAnywhere of the existing supplier and potentially again for a new supplier from 1 July 2026.

This tender is for a three-year contract with an option for three one-year extensions, commencing 1 July 2025.

12.4 TENDER T050/2025 - SUPPLY AND DELIVERY OF INDUSTRIAL HARDWARE

DIRECTORATE: **REGIONAL SERVICES**
AUTHOR: **George Shearman, Manager - Plant Fleet and Building Services**
Sebastian Lees, Technical Officer - Plant and Supply

The Council will determine this matter in part of the Meeting closed to the public pursuant to Section 10A(2) (d)ii of the Local Government Act 1993 on the grounds that the matter and information is information that would, if disclosed, confer a commercial advantage on a competitor of Council.

SUMMARY

This is a Regional Procurement tender (T282425NAMOI), for the supply and delivery of industrial hardware to Tamworth Regional Council (TRC), Bellingen Shire Council and Gunnedah Shire Council.

Examples of industrial hardware include: hand tools and light machinery, fencing materials, personal protective equipment, slings, chains, pumps, cement, spill kits along with many other specialised items.

These items are utilised across TRC on new and upgrade projects as well as maintenance and renewal projects each year. Having an established contracted supplier in place ensures that staff can access competitive pricing without having to engage in a formal process each time hardware is required. TRC has expended approximately \$120,000 per annum on

industrial hardware purchased through our previous industrial hardware contract.

12.5 TENDER T128-2024 - PERIOD CONSULTANCY PROVISION OF WATER AND SEWERAGE CONSULTING SERVICES

DIRECTORATE: WATER AND WASTE
AUTHOR: Daniel Coe, Manager - Water and Environmental Operations
1 CONFIDENTIAL ENCLOSURES ENCLOSED

The Council will determine this matter in part of the Meeting closed to the public pursuant to Section 10A(2) (d)i of the Local Government Act 1993 on the grounds that the matter and information is commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

SUMMARY

The purpose of this report is to recommend engagement of a consultant to provide water and sewer consulting services to Council for a period of three years with an option to extend for a further two years.

12.6 Q040-2025 - DURBIN STREET BRIDGE REPLACEMENT NUNDLE

DIRECTORATE: REGIONAL SERVICES
AUTHOR: Mark Gardiner, Manager - Project Planning and Delivery
Lachlan Mackiewicz, Project Engineer

The Council will determine this matter in part of the Meeting closed to the public pursuant to Section 10A(2) (d)i of the Local Government Act 1993 on the grounds that the matter and information is commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

SUMMARY

The purpose of this report is to seek Council's acceptance of quotation Q040/2025 to award a lump sum contract for the construction of a new precast concrete box culvert to replace the existing bridge on Durbin Street, Nundle.

Background

Since amalgamation, Council has prioritised the replacement of timber bridges throughout the Local Government area (LGA), most of which were beyond their 'design life' and many of which had load restrictions.

Starting with 67 timber bridges in 2004, the bridge on Durbin Street in Nundle is one of only a few remaining in the LGA.

Council's timber bridge replacement program has benefited from extensive external funding, maximised by Council staff through having civil designs, hydrology and geotechnical investigations completed to inform budget estimates, ahead of funding opportunities becoming available.

NSW Government funding was obtained for the bridge at Durbin Street Nundle in Round 2A of their Fixing Country Bridges program.

Following funding being obtained, Council's project team managed the detailed design of the culvert, procured the precast concrete components and completed environmental

assessment for the project via a Review of Environmental Factors (REF). A Fisheries Permit is now underway with the construction methodology of the preferred contractor now known.

The new culvert will have a design life of 100 years, designed and constructed in accordance with current relevant standards with no restriction on loading for legally loaded general access vehicles. The culvert will be one lane wide, with traffic not expected to increase substantially (if at all) in the medium to long term.

The project location is shown in Figure 1 below. The existing bridge and the precast concrete components on site are shown in Figures 2 and 3 below.

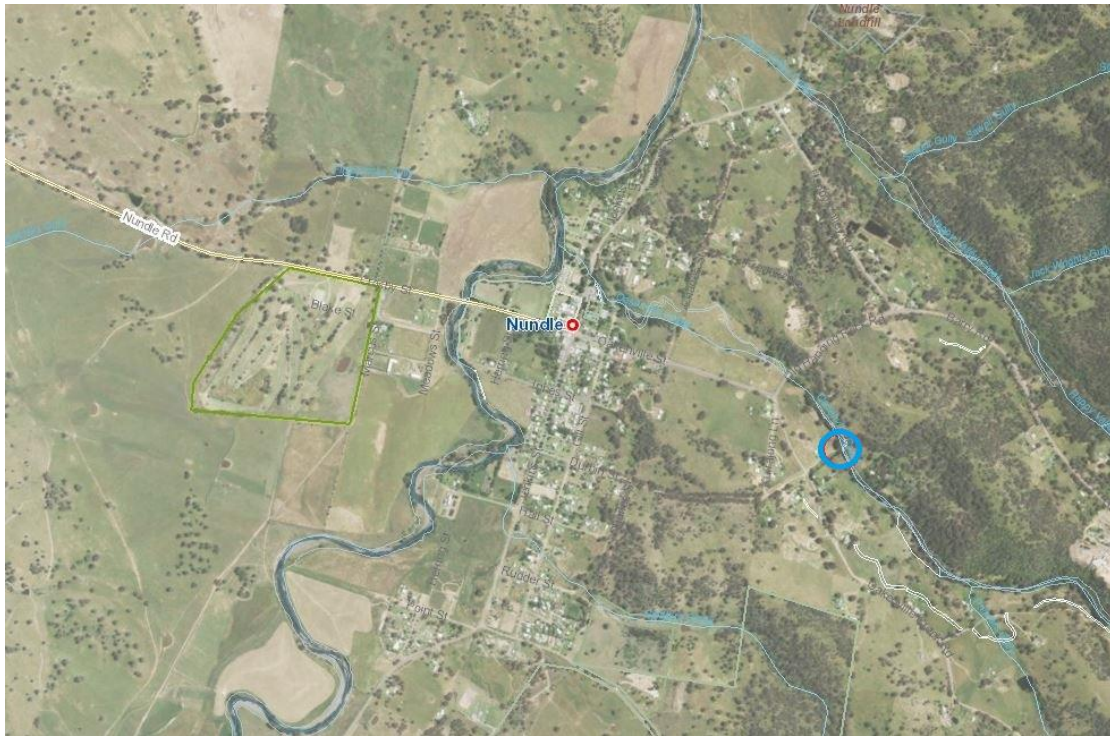


Figure 1 – Bridge location (blue circle)



Figure 2 – Existing bridge



Figure 3 – Culvert precast components on site

Contract Scope

The contract for the construction of the culvert was advertised on Council's website and Tenderlink for a period of 29 days and closed on 7 November 2024. Contractors were

required to provide a schedule of prices for the works, including:

- project management, site management, administration, quality assurance including work as executed information; and
- construction of the works, including:
 - site establishment including traffic management, environmental controls, service locating, survey set out, etc;
 - provide temporary access to residence via hire car and temporary pedestrian bridge;
 - demolition of existing bridge (Council will retain the steel girders);
 - construct new culvert;
 - backfill new culvert and reconstruct road approaches;
 - construct scour protection; and
 - site rehabilitation.

12.7 T029-2025 - DESIGN AND CONSTRUCTION OF RIVERSIDE SHARED PATH LIGHTING

DIRECTORATE: REGIONAL SERVICES
AUTHOR: Mark Gardiner, Manager - Project Planning and Delivery
Leonie Brown, Project Administrator

The Council will determine this matter in part of the Meeting closed to the public pursuant to Section 10A(2) (c),(d)i&(d)ii of the Local Government Act 1993 on the grounds that the matter and information is 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 and information that would, if disclosed, confer a commercial advantage on a competitor of Council.

SUMMARY

The purpose of this report is to seek Council's acceptance of quotation T029-2025 to award a lump sum contract for the design and construction of pedestrian lighting along the Riverside Shared Path.

Pedestrian lighting is proposed to be provided along approximately 1.6 kilometres of shared path on Solander Drive, between Gipps Street and Jewry Street, on the western side of the Peel River. This path is used by pedestrians and cyclists and forms part of the 'Peel River Loop' as identified in Tamworth Regional Council's (Council) Active Transport Strategy. There is limited access to electricity in this area, so it was anticipated that the majority or all of the lighting would be solar-powered (both solar and 'mains' power solutions were invited).

This project is funded by the Australia Government's Local Roads and Community Infrastructure Program (LRCI), Phase 4, with a total funding allocation of \$500,000. In 2022 Phase 2 of the LRCI program funded the design and construction of solar lighting on a section of path along the opposite side of the Peel River, as well as along Scott Road and Calala Lane.

Challenges of this site that tenderers needed to address in their proposed lighting solution include the presence of tall trees (shading) and flooding. The lighting system needed to have:

- a minimum warranty period of five years;
- a design life of 25 years;
- poles and footings to withstand 1 in 20 Annual Exceedance Probability (AEP) flood loading; and

- panels able to adequately capture solar given the angles of the path and the vegetation.

The project location is shown in Figure 1 below.

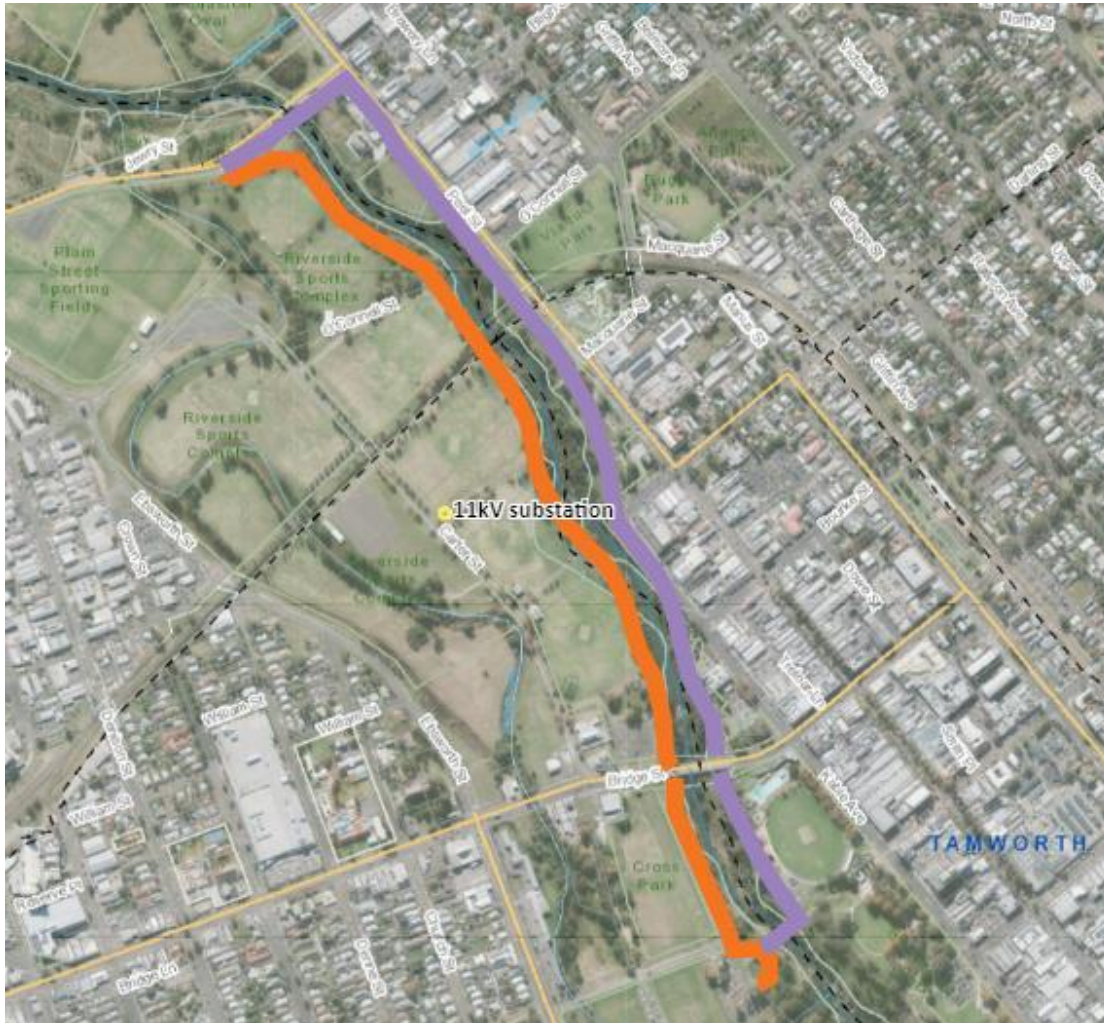


Figure 1 – Orange line shows proposed lighting, and purple line shows existing lighting which will form a lit recreation loop.

Contract Scope

The tender for this project was advertised for a period of 27 days and closed on 20 November 2024. Tenderers were required to attend a mandatory site meeting on 31 October in order to submit a conforming tender, and provide a schedule of prices for the works, including:

- design of all lighting components, demonstrating compliance with requirements for PP3 lighting as specified in AS1158.3;
- supply, installation and construction;
- reinstatement of disturbed areas and commissioning of installed infrastructure;
- project management, site management, administration; and
- preparation of handover documentation including Works As Executed (WAE) drawings and warranty and technical specifications.

CLOSED COUNCIL

Confidential Reports

(Section 10A(2) of The Local Government Act 1993)

Where it is proposed to close part of the Meeting, the Chairperson will allow members of the public to make representations to or at the meeting, before any part of the Meeting is closed to the public, as to whether or not that part of the meeting should be closed to the public.

The Chairperson will check with the General Manager whether any written public submissions or representations have been received as to whether or not that part of the meeting should be closed to the public.

The grounds on which part of the Council meeting may be closed to public are listed in Section 10A(2) of the Local Government Act 1993 and are as follows:

- (a) personnel matters concerning particular individuals other than Councillors,
- (b) the personal hardship of any resident or ratepayer,
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret,
- (e) information that would, if disclosed, prejudice the maintenance of law,
- (f) matters affecting the security of the council, councillors, council staff or council property,
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
- (h) during the receipt of information or discussion of information concerning the nature and location of a place or an item of Aboriginal significance on community land.
- (i) alleged contraventions of any code of conduct requirements applicable under section 440.

Section 10A(3) of the Act provides that Council, or a Committee of the Council of which all the members are councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

Section 10B(3) of the Act provides that if a meeting is closed during discussion of a motion to close another part of the meeting to the public (as referred to in section 10A(3) of the Act), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is matter referred to in section 10A(2) of the Act).

Section 10B(1) of the Act provides that a meeting is not to remain closed to the public during the receipt of information or the discussion of matters referred to in section 10A(2):

- (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
- (b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret - unless the Council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest section 10B(4) of the Act states it is irrelevant that:

- (a) a person may interpret or misunderstand the discussion, or
- (b) the discussion of the matter may:
 - (i) cause embarrassment to the Council or committee concerned, or to councillors or to employees of the council, or
 - (ii) cause a loss of confidence in the Council or committee.

Resolutions passed in Closed Council

It is a requirement of Clause 253 of the Local Government (General) Regulation 2005 that any resolution passed in Closed Council, or Committee be made public as soon as practicable after the meeting has ended. At the end of Closed Council or Committee meeting, the Chairperson will provide a summary of those resolutions passed in Closed Council or Committee.