

# TAMWORTH REGIONAL COUNCIL

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

## ORDINARY COUNCIL AGENDA

**26 OCTOBER 2021**

**PAUL BENNETT  
GENERAL MANAGER**

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## Council

Meeting Date: 2<sup>nd</sup> and 4<sup>th</sup> 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, 12 October 2021, copies of which were circulated be taken as read and confirmed as a correct record of the proceedings of the Meeting.*

### 4 **DISCLOSURE OF INTEREST**

Pecuniary Interest

Non Pecuniary Conflict of Interest

Political Donations

### 5 **MAYORAL MINUTE**

Nil

### 6 **NOTICE OF MOTION**

Nil

### OPEN COUNCIL REPORTS

### 7 **ENVIRONMENT AND PLANNING**

- 7.1 **DEVELOPMENT APPLICATION FOR CHANGE OF USE - FEEDLOT (999 HEAD) ON LOT 29, 33 AND 34, DP755329 AND LOT 282, DP 587888 'LLOMA' 252 PENDENE ROAD, LOOMBERAH NSW - FILE No. DA2021-0254**

DIRECTORATE: **PLANNING AND COMPLIANCE**  
AUTHOR: **Sam Lobsey, Manager - Development**

**5 ANNEXURES ATTACHED**  
**2 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 Development Application No. DA2021-0254 for a Change of Use – Feedlot (Intensive Livestock Agriculture) at Lot 29 DP 755329 and Lot 33 DP 755329 and Lot 34 DP 755329 and Lot 282 DP 587888, “Lioma” 252 Pendene Road LOOMBERAH NSW 2340, grant development consent subject to the following conditions:***

#### **GENERAL**

- 1) ***The development must be carried out in accordance with the following stamped plans and documentation:***
  - a) ***Site Boundaries and Vehicle Access Plan submitted with the Statement of Environmental Effects (V7), prepared by Continuum ERS, dated 11/05/2021;***
  - b) ***Plan titled Location of Feed Shed Water tank and Tree Corr, prepared by prepared by Continuum ERS, Revision B dated 26/09/2021;***
  - c) ***Planting Plan prepared by Nature’s Vision Landscapes, dated 09/2021;***
  - d) ***Controlled Drainage Area Engineering Drawings containing Site Plan and Effluent Storage details prepared by Kelley Covey Group Pty Ltd, Project No. T207674, Sheets 1 to 6 all dated 3/12/2020;***
  - e) ***Controlled Drainage Area Calculation Plan prepared by Continuum ERS,***



*dated 27/10/2020;*

- f) Feed Bunker Detail Plans prepared by Techspan Building Systems Pty Ltd, Sheets 1 to 4, Revision A all dated 06/05/2021; and*
  - g) Silo Details, Model No. 2800, Pages 1 and 2 (notated in red)*
- 2) To confirm and clarify the terms of this approval:**
- a) the maximum capacity of the feedlot is 999 head of cattle;*
  - b) the feedlot site is located on Lot 33 DP 755329;*
  - c) the two production bores from which water may be used to supply the feedlot are located on Lot 29 DP 755329 and Lot 33 DP 755329;*
  - d) the spreading of manure and effluent from the feedlot is permitted on Lot 29 DP 755329, Lot 33 DP 755329, Lot 34 DP 755329 and Lot 282 DP 587888; and*
  - e) the hours of operation are limited to daylight hours.*
- NB: Whilst the delivery of stock will largely be undertaken during daylight hours, it is acknowledged that on occasions these movements may occur outside daylight hours due to the location of stock supplies and timetabling of the external transport companies.*
- 3) *the feedlot design and management shall be designed, constructed and operated in accordance with relevant components of the National Guidelines for Beef Cattle Feedlots in Australia 3rd Edition published by Meat and Livestock Australia, National Beef Cattle Feedlot Environmental Code of Practice (2nd Edition), Beef cattle feedlots: Design and Construction Standards (August 2016);***
  - 4) *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 the Council;***
  - 5) *the owner/operator shall take all measures to prevent or minimise harm to the environment during the construction, operation, and where relevant, decommissioning of the development;***
  - 6) *throughout the life of the development, the owner/operator must secure, renew, maintain and comply with all the relevant statutory approvals applying to the development. The owner/operator shall ensure that all contractors and sub-contractors are aware of, and comply with, the conditions of this consent and other relevant approvals;***
  - 7) *it is the responsibility of the developer to meet all expenses incurred in undertaking the development, including expenses incurred in complying with conditions imposed under this approval;***

#### **Watercourse Management**

- 8) *the owner/operator shall ensure that all practical measures are taken to prevent, control, abate or mitigate water pollution and protect human health and the environment from harm in accordance with the Protection of the Environment Operations Act 1997;***

- 9) *all works shall be constructed outside of 40 metres from any watercourse;*
- 10) *all concentrated roof water and surface stormwater discharging from the development site, buildings and works must be conveyed to an approved point of discharge to the satisfaction of Council, via appropriate open drainage channels and structures;*
- 11) *the approved points of discharge for the development site are defined as:*
  - a) *the swale drain on the western side of Pendene Road that directs flows to associated culverts / causeways across Pendene Road; and*
  - b) *overland flow to Sandy Creek to the west of the development.*
- 12) *on-site detention shall be provided such that peak flow rates from the site are at or below pre-development levels for all storms up to and including the critical 1%AEP (1 in 100-year ARI) event;*
- 13) *the stormwater discharge drainage system must be constructed to comply with the following requirements as a minimum:*
  - a) *all plumbing within the site must be carried out in accordance with relevant provisions of Australian Standard AS/NZS 3500.3 (as amended) Plumbing and Drainage – Stormwater Drainage;*
  - b) *temporary down pipes shall be connected as soon as any roof has been covered so as to not cause a nuisance;*
  - 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; and*
  - 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.*
- 14) *to protect the amenity of the surrounding neighbourhood from the emission of light, any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with Australian Standard AS4282;*
- 15) *the owner/operator shall consult with, as required:*
  - a) *Essential Energy;*
  - b) *Natural Gas Company; and*
  - c) *a Telecommunications carrier;*

*regarding 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);*

#### **Signage**

- 16) *unless otherwise required by conditions of this consent. A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is 'exempt development' under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or any other*
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*applicable environmental planning instrument;*

**Traffic and Parking**

- 17) *all internal driveways and parking areas to be constructed with a base course of adequate depth to accommodate the design vehicle loading.*

**PRIOR TO WORKS COMMENCING**

**General**

- 18) *a Construction Certificate is required for the development in accordance with Section 6.7(1) of the Environmental Planning and Assessment Act 1979;*
- 19) *prior to the commencement of work, the person having the benefit of the development consent and a Construction Certificate shall:*
- a) *appoint a Principal Certifier and notify the Council of the appointment (if Council is not appointed); and,*
  - b) *notify Council of their intention to commence building work (at least 2 days' notice is required).*
- 20) *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.*

- 21) *the owner/operator 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.*

- 22) *the contractors engaged to undertake work on Council land or infrastructure must maintain public liability insurance cover to the minimum value of \$20 million. The policy shall specifically indemnify Council from all claims arising from the execution of the works. Documentary evidence of the currency of the policy shall be provided to Council prior to the commencement of work and upon request, during the progress of the work;*

**Erosion and Sediment Control**

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- 23) *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 prior to the commencement of any construction works;*

**Traffic Management**

- 24) *prior to the commencement of any works, a Traffic Management Plan (TMP) shall be prepared and submitted to Council for approval. The (TMP) shall detail how movements in and out of the site during the construction and operational phases of the development will be adequately managed so as not to adversely impact the safe operation of the road network;*
- 25) *where the TMP for the construction phase is of a level of complexity that Traffic Guidance Schemes (TGS’s) are required, the TGS’s shall be prepared by a person with applicable certification in accordance with AS1742.3-2009 and the current version of the "Traffic Control at Worksites" manual;*
- 26) *where upgrades to existing access points associated with the construction phase of the development are warranted, approval from Council pursuant to Section 138 of the Roads Act 1993 from Council will be required. Detailed construction plans shall be prepared and submitted to Council for approval;*

**PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE**

**Landscaping Bond**

- 27) *a cash bond or bank guarantee to the value of the landscaping works (vegetative screening) must be paid to Tamworth Regional Council and be valid for a period of 5 years, prior to issue of a Construction Certificate.*

**Development Contributions**

- 28) a) *in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979, and the Tamworth Regional Council Section 7.12 (formerly known as S94A) Development Contributions Plan 2013, \$975.00 shall be paid to Council to cater for the increased demand for community infrastructure resulting from the development;*
- b) *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:*

$$\text{\$CPY} = \frac{\text{\$CDC} \times \text{CPIPY}}{\text{CPIDC}}$$

**Where:**

**\\$CPY** *Is the amount of the contribution at the date of Payment*

**\$CDC** *Is the amount of the contribution as set out in this development consent*

**CPIPY** *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*

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

- c) *the monetary contributions shall be paid to Council prior to the issue of a Construction Certificate;*

*It is the professional responsibility of the Principal Certifying Authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes; and*

*the Tamworth Regional Council Section 94A Development Contributions Plan may be viewed at [www.tamworth.nsw.gov.au](http://www.tamworth.nsw.gov.au) <<http://www.tamworth.nsw.gov.au>> or a copy may be inspected at Council's Administration Centre during normal business hours;*

#### **General**

- 29) *Engineering design plans, reports and calculations prepared in accordance with Council's current version of the Engineering Design Minimum Standards for Subdivisions and Developments are required for stormwater drainage and upgrade to roads during construction. Completed 'Information to be shown on drawings' and 'Checklists' contained within Councils current version of the Engineering Design Minimum Standards for Subdivisions and Developments for each asset category shall be submitted prior to issue of a Construction Certificate as confirmation that all works are designed in accordance with recognised and accepted guidelines.*

*Advisory Note: Any line marking and/or regulatory signage shown on any plan is required to be reviewed and approved by the Local Traffic Committee prior to approval of the plan(s).*

- 30) *Certification shall be provided in accordance with Annexure A of Council's current version of the Engineering Design Minimum Standards for Subdivisions and Developments prior to issue of a Construction Certificate;*
- 31) *any 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;*

#### **DURING CONSTRUCTION OF WORKS**

- 32) *during works, the vegetation screen / landscaping along the northern, eastern and south west perimeter of the feedlot site shall be progressively established, as shown on the endorsed plans;*

*NB: Works will include construction of a protective fence around the perimeter of the vegetative screening from general farming activities.*

- 33) *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 residential premises, otherwise 7.00am to 5.00pm;*
- No work to be carried out on Sunday or Public Holidays if it is audible on residential premises;*
- 34) *the developer shall be responsible to instruct and control their contractors regarding the hours of work. Council will exercise its powers under the Protection of the Environment Operations Act 1997, in the event that the building operations cause noise to emanate from the property on Sundays or Public Holidays or otherwise than between the hours detailed above;*
- 35) *all building works shall be constructed in accordance with safe work practices and complying with the relevant Australian Standards, Codes of Practice and the National Construction Code (NCC);*
- 36) *erosion and sediment control measures in accordance with the Erosion Sediment Control Plan (ESCP) are to be maintained by the developer at all times;*
- 37) *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 owner/operator 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;*
- 38) *the approved Traffic Management Plan (inclusive of any resultant Pedestrian Management Plans and the Traffic Control Plans) shall be implemented and any associated barriers, signage and controls shall be maintained in a functional state at all times;*
- 39) *if the work involved in the construction of the development is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the closure of a public place, approval from Council's Development Engineering Division is required;*
- 40) *any damage caused to Council infrastructure during the subject development works shall be rectified by the owner or the builder to the satisfaction of Council to ensure the integrity of Council's infrastructure is maintained to an acceptable standard;*
- 41) *while construction work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The owner and / or operator must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.*

*In this condition:*

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- **“relic” means any deposit, artefact, object or material evidence that:**
    - (a) **relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and**
    - (b) **is of State or local heritage significance; and**
  - **“Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains; and**
- 42) **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;**
- 43) **Should any contaminated, scheduled, hazardous or asbestos material be discovered before or during construction works, the owner/operator and contractor shall ensure the appropriate regulatory authority is notified and that such material is contained, encapsulated, sealed, handled or otherwise disposed of to the requirements of such Authority;**
- 44) **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 Directions published by the NSW Land and Property Information Service. In this regard, the Principal Contractor is responsible for the protection of the mark;**

#### **Noise**

- 45) **the activities at the site must not create nuisance or intrusive noise as defined by the Protection of the Environment Operations Act 1997, when measured or assessed in a habitable room of a residential premises. The noise created at the site must also comply with the NSW Noise Policy for Industry 2017;**
- 46) **All plant and equipment must be shut down when not in use and not left to idle. Plant must be operated in a conservative manner;**
- 47) **simultaneous use of noisy plant and or equipment must not occur where reasonable and practicable;**
- 48) **all plant and machinery are to utilise broadband reversing alarms instead of hi frequency reversing alarms;**

#### **Allotment Filling**

- 49) **while construction work is being carried out, the Principal Certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:**
- a) **all excavated material removed from the site must be classified in accordance with the EPA’s Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the Principal Certifier; and**

- b) *all fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA; and*

#### **Inspections**

- 50) *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 Regulation 2000. The owner may appoint either Council or an accredited certifier to be the PCA;*

#### **PRIOR TO THE RELEASE OF AN OCCUPATION CERTIFICATE**

- 51) *before the issue of an Occupation Certificate, Tamworth Regional Council must be satisfied that vegetation screen / landscaping along the northern, eastern and south west perimeter of the feedlot site has been planted in accordance with the approved plans and any relevant conditions of this consent;*
- 52) *evidence shall be provided from a qualified, practising Structural Engineer that structures previously built and associated with the feedlot were constructed in accordance with the provisions of the National Construction Code (NCC). The relevant structures are:*
  - a) *heavy duty post and cable stock fencing; and*
  - b) *shade sail structure;*
- 53) *for developments where allotment filling has been undertaken, a copy of the NATA testing authority certification for compliance to the requirements of AS2870.1 (as amended) – Residential Slabs and Footings – Construction shall be provided to Council;*
- 54) *the intersection of Pendene Road with Duri-Dungowan Road shall be upgraded to accommodate the design vehicles in such a way that swept paths are sufficiently clear of pavement edges and associated stormwater drainage infrastructure, to the satisfaction of Council;*

*Advisory Note: Pendene Road and Portions of Duri-Dungowan Road are not currently designated B-Double routes. Operation of B-Double vehicles into and out of the site will necessitate an application to Council for inclusion of these roads in the approved B-Double network. Any such approval for the unsealed portion of Pendene Road is likely to include a requirement for the cessation of B-Double movements in the event of wet weather.*

- 55) *an Inspection Test Plan (ITP) for the construction of roads and drainage infrastructure required for the development shall be submitted to Council's Development Engineering Division for approval to ensure the quality of construction meets the design criteria prior to issue an Occupation Certificate;*
  - 56) *all works as required by these conditions of consent shall be completed;*
  - 57) *Work-as-executed plans shall be prepared showing all completed works in accordance with the Council's Engineering Design Minimum Standards for Subdivisions and Developments and submitted to Council for approval;*
  - 58) *all test results, material certificates, non-conformance reports and signed off hold / witness points as required by the Inspection and Test Plan (ITP) shall be*
-



*submitted to Council to verify the quality of the completed product;*

**PRIOR TO COMMENCEMENT OF FEEDLOT OPERATIONS**

- 59) *the subject feedlot must obtain accreditation through the National Feedlot Accreditation Scheme (NFAS);*

*NB: NFAS is an independently audited quality assurance scheme initiated by Australian Lot Feeders Association (ALFA) and managed by the Feedlot Industry Accreditation Committee (FIAC).*

- 60) *all proposed building, site works or property improvement indicated on the submitted plans or otherwise required under the terms of this consent shall be completed prior to operation of the premises to ensure compliance with the provisions of the Environmental Planning and Assessment Act 1979;*
- 61) *the owner/operator must prepare and submit an Operational and Environmental Management Plan (OEMP) to be approved by Council prior to commencement of the feedlot operation. The OEMP must:*
- a) identify relevant statutory requirements applicable to the operation of the development;*
  - b) detail the proposed operations, including the roles and responsibilities of all key personnel involved in the operation of the development;*
  - c) set standards and performance measures for each of the relevant environmental matters associated with the operation of the development;*
  - d) describe the proposed corrective actions that will be implemented to mitigate potentially negative impacts of the development;*
  - e) describe what measures and procedures will be implemented to address relevant environmental matters;*
  - f) ensure the operational health and safety of workers;*
  - g) respond to potential emergencies; and*
  - h) provide records of day-to-day operations, including: incoming and outgoing stock numbers etc.;*
- 62) *the OEMP must address the details listed in the Amended Statement of Environmental Effects Version 7, prepared by Continuum ERA Pty Ltd dated 11 May 2021, Section 7.3 Operational Management Plan, as well as the following and any other matters addressed in these conditions:*
- a) manure management plan including stock piling and spreading. This must detail alternate locations for spreading should soil nutrient storage capacity and crop utilisation be exceeded;*
  - b) effluent management plan including drainage, storage and irrigation in accordance with the NSW Environmental Protection Authority (EPA) Environmental Guidelines: Use of Effluent by Irrigation. This must detail alternate locations for spreading should soil nutrient storage capacity and crop utilisation be exceeded;*

*Note – the Effluent management plan must include details/contingencies in the event that any of the subject land is sold or otherwise not available*

*for manure and effluent spreading;*

- c) soil monitoring relevant to the feedlot operations including details of location and time. Baseline soils tests should be conducted prior to the commencement of feedlot operations to establish a soil nutrient, organic matter and chemical status;*
- d) ground water monitoring relevant to the feedlot operations including details of monitoring bore locations and monitoring timing. Baseline tests should be conducted prior to commencement of the feed lot operations;*
- e) surface water monitoring relevant to the feedlot operations including details of location and time;*
- f) the cessation of B-Double truck movement in the event of wet weather;*
- g) dust management plan;*
- h) biosecurity management plan;*
- i) emergency operations plan;*
- j) odour management plan;*
- k) real time data of standard cattle units at the facility;*
- l) soil erosion and sediment control plan;*
- m) spilt and spoilt feed management plan including collection and disposal;*
- n) management of chemicals, oils, fuels;*
- o) flies and vermin management plan;*
- p) dead stock management plan including daily and mass mortality;*
- q) noise management plan relevant to feedlot operations;*
- r) complaints management system; and*
- s) any other relevant matters;*

#### **Water Supply**

- 63) the owner/operator must provide evidence to Council confirming an appropriate Water Access Licence is entitled for use for the feedlot;*

#### **Heat Load Assessment**

- 64) an excessive heat load (EHL) management plan shall be developed as part of the OEMP. The EHL Management Plan shall be prepared in accordance with advice from the Meat and Livestock Australia – Tips and Tools - “Managing Excessive Heat Load in Feedlot Cattle” or other approved guidance documents;*

#### **Complaint Management**

- 65) prior to the commencement of the operation of the development, the owner/operator shall arrange for a sign to be erected on the main entrance to the property clearly displaying the operator’s contact telephone number, email address and postal address where complaints can be lodged. This sign must be erected so that it is visible and legible from Pendene Road;*
- 66) the operators shall maintain a register of all complaints received regarding the*

*impact of the feedlot operation. This register must include: all responses and any measures taken to address any perceived problems; time and date details; name and contact details of complaints (if known) and those responsible for investigating the complaint with climatic conditions associated with the complaints;*

## **ONGOING REQUIREMENTS**

### **Operational and Environmental Management Report**

- 67) *the owner/operator shall submit an annual Operational Environmental Management Report (OEMR) to the Council twelve (12) months after the commencement of operations, and annually thereafter. The report shall:*
- a) *provide an overview of the operation of the development, including a record of the average and maximum number of cattle held during the reporting period;*
  - b) *include detailed reporting from the Operational Environmental Management Plan and identify any trends in the monitoring of relevant environmental parameters in the OEMP over the life of the development;*
  - c) *review the environmental performance of the development to determine whether it is complying with development consent;*
  - d) *identify all the occasions during the reporting period when there has been non-compliance; where non-compliance is occurring, describe corrective actions taken to ensure compliance, who was responsible for carrying out these actions, and when those actions were implemented; and*
  - e) *include a summary of any complaints made about the development, and indicate what actions were taken (or are being taken) to address these complaints;*

*After reviewing the Operational Environmental Management Report (OEMR), Council may require the operators to address certain matters as identified in the Report. The operators shall comply with any reasonable requirements of the Council;*

### **Visual Requirements**

- 68) *The owner/operator must:*
- a) *maintain the vegetative landscape screening at all times;*
  - b) *minimise the off-site visual impacts of the development, including the potential visual impact from the grain bunker cover which must be replaced with an earthy toned colour to the satisfaction of Council; and*
  - c) *not mount any advertising signs or logos on site, except where this is required for safety or business identification purposes and subject to a separate approval;*

### **Odour Complaints**

- 69) *if odour complaints are received and considered valid by Council, Council shall investigate and implement appropriate measures to reduce the incidence and severity of odours;*

- 70) *all feedlot pens and facilities must be routinely maintained to ensure all wastewater runoff is diverted within the controlled drainage area and excessive manure is removed to eliminate potential for offensive odours;*
- 71) *any spilt and/or spoilt feed must be regularly collected and included within the manure stockpile, composted or buried in an acceptable manner;*

#### **Noise Management**

- 72) *the owner/operator shall ensure that all machinery and equipment is maintained and operated in a proper and efficient manner so that noise generated from their operation does not give rise to offensive noise complaints;*
- 73) *the operation of this activity must not produce noise levels greater than the more stringent of the following:*
  - 5dB(A) above background levels (when measured as an LAeq (15 min) at the most affected point on or within the property boundary of any residential receptor);OR: The amenity criteria which is 45dB(A) (daytime), 40dB(A) (evening) and 35dB(A) (night time);*
  - \*Daytime being the period from 7 am to 6 pm Monday to Saturday or 8 am to 6 pm on Sundays and public holidays;*
  - \*Evening being the period from 6 pm to 10 pm and \*Night time being the remaining periods.*

#### **Effluent and Manure Management**

- 74) *the effluent holding lagoons shall both be maintained at all times at a capacity that allows for the intake of a 1 in 20-year storm, 24-hour storm event and prevents potential overflow;*
  - 75) *the effluent management system including drainage, storage and irrigation must be carried out in accordance with the NSW Environmental Protection Authority (EPA) Environmental Guidelines: Use of Effluent by Irrigation;*
  - 76) *the storage, transportation and application of manure on the property must be conducted in accordance with the approved OEMP. Manure is to be stock piled on site in the short term, for no more than one month;*
  - 77) *the manure stock pile shall be located and maintained within the approved controlled drainage area and in the approved OEMP. The stockpile site shall have an impermeable floor and be maintained in long low mounds so as to minimise erosion by wind and water;*
  - 78) *all effluent catch drains, effluent lagoons and manure stockpile pad must be constructed and clay lined as per the National Guidelines for Beef Cattle Feedlots in Australia 3rd Edition;*
  - 79) *all effluent catch drains, effluent lagoons, manure stockpile pad and Controlled Drainage Area diversion banks must be inspected quarterly and maintained in accordance with the National Guidelines for Beef Cattle Feedlots in Australia 3rd Edition. Inspection reports are to be included in the Operational Environmental Management Report;*
  - 80) *soil, surface water and ground water monitoring will be conducted and recorded in the OEMR in accordance with the OEMP. This must include*
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*baseline data;*

- 81) *effluent irrigation and manure spreading must be spread during favourable weather conditions when wind conditions are such that the wind direction is not blowing directly towards an adjacent residence. Weather conditions will be monitored by the owner/operator during the spreading operations. Spreading will cease if unfavourable conditions arise;*
- 82) *effluent irrigation and manure spreading is not to be undertaken during or before expected heavy rain periods;*
- 83) *where possible, a shrouded cover is to be attached to the back of the broadcast spreader to help reduce dust and odour;*
- 84) *effluent irrigation and manure spreading shall not occur within:*
  - a) *50 metres from a water course and edge of remnant vegetation;*
  - b) *100 metres from a bore site;*
  - c) *100 metres from any property boundary and/or occupiable premises on an adjoining property; and*
  - d) *25 metres from a public road;*
- 85) *waste effluent application (liquid and solid) must not occur in a manner that causes surface runoff and pollution of any watercourses;*
- 86) *waste manure must be reapplied to the site in a sustainable manner to ensure all application areas do not exceed the capacity of the area to effectively utilise the materials (for the purposes of this condition, 'effectively utilise' includes the use of the effluent and solids for pasture or crop production, as well as the ability of the soil to absorb nutrients, salts, hydraulic loads and organic material);*

#### **Dead Stock Management**

- 87) *mortalities shall be managed as per the details contained with Section 6.17 Disposal of Dead Stock in the Amended Statement of Environmental Effects version 7, prepared by Continuum ERA Pty Ltd dated 11 May 2021;*
- 88) *a record of the location of dead animal pits (regular mortality and multiple mortality pits) shall be kept and made available to Council at all times. The location of the pits shall be marked on a map and the information as a minimum shall include depth of pit, number of carcasses disposed in pit, date of pit creation and date the pit was finished being used;*
- 89) *mortality pits shall be designed in a manner that they will not contaminate ground water (soil shall be impermeable to water or create an impermeable pit with at least 1.5 metres to groundwater). All pit carcasses shall be covered in sufficient soil to prevent odour, flies and pest animals being able to access the carcasses;*
- 90) *no burning of carcasses is permitted unless specifically directed by the NSW Department of Primary Industries in relation to biosecurity issues and/or the presence of notifiable disease outbreaks;*

#### **Traffic Management**

- 91) *a Traffic Management Plan shall be implemented and maintained for the site*
-

*that monitors, controls and mitigates the traffic impacts on Council’s Road network extending from the development’s operations;*

- 92) *all vehicular movement to and from the site shall be in a forward direction to ensure that the proposed development does not give rise to vehicle reversing movements on or off the Public Road with consequent traffic accident potential and reduction in road efficiency; and*

**On-Site Stormwater Systems**

- 93) *the on-site stormwater systems shall be maintained at all times so as to ensure their effective operation for their intended purpose.*

**APPLICATION DETAILS:**

Application No.	DA2021-0254
Application For:	Change of Use – Feedlot (Intensive Agriculture)
Date Received:	08/12/2020
Applicant:	Goonoo Goonoo Pastoral Pty Limited
Owner:	Goonoo Goonoo Pastoral Pty Limited
Land/Address:	Lot 29 DP 755329 and Lot 33 DP 755329 and Lot 34 DP 755329 and Lot 282 DP 587888, “Lloma” 252 Pendene Road LOOMBERAH NSW 2340
Zoning:	RU1 Primary Production - <i>Tamworth Regional Local Environmental Plan 2010</i>

**DEVELOPMENT ASSESSMENT SUMMARY**

Description of Proposal

The proposed development involves a change of use to a feedlot on the property known at “Lloma” at 252 Pendene Road (Lot 29 DP 755329 and Lot 33 DP 755329 and Lot 34 DP 755329 and Lot 282 DP 587888).

State and Local Planning Legislation

The proposed development, is defined as ‘*Intensive Livestock Agriculture*’ in accordance with the Tamworth Regional Local Environment Plan 2010 and is a permissible use in the RU1 – Primary Production zone.

Due to the number of cattle proposed (999 head) the proposed development did not fall into the category of ‘Designated Development’ and therefore pursuant to the provisions of Schedule 3 of the Environmental Planning and Assessment Regulation 2000, an environmental impact statement was not required.

The proposed development was assessed against the provisions of Section 4.46 of the *Environmental Planning and Assessment Act 1979 (EPandA Act)* to determine whether the application triggers integrated development provisions. The integrated provisions were not triggered as approvals were not required by other agencies as specified in the *Water Management Act 2000, Rural Fires Act*

1997, Roads Act 1993, Protection of the Environment Operations Act 1997.

Referral to Agencies

Due to the scale of the proposed development it was not required to be referred to any State government agencies. Council did seek advice from the NSW Environmental Planning Authority (EPA) and the NSW Department of Primary Industries (DPI), advice which has been considered in the assessment of this development application. The Development Application was referred to Council's internal specialist in the Development Engineering Division (DE) and the Environmental Health Unit (EHU). Commentary by both divisions is provided within the body of this report. Both the DE and EHU are satisfied that the proposed development may be recommended for approval subject to conditions of consent.

Community Consultation

Council received 67 unique submissions across two separate public exhibition periods from 48 submitters. The primary concerns raised in the submissions include the potential impacts from odour, traffic, noise, dust, water contamination, visual amenity, soil degradation and land use conflict. Another common issue raised in the submissions is the manner in which the existing cattle handling yards were constructed as a drought feeding facility under emergency (drought) provisions contained in the State Environmental Planning Policy (Primary Production and Rural Development) 2019 (SEPP PPRD). Council has received legal advice in relation to this issue which is **ENCLOSED**, see **CONFIDENTIAL ENCLOSURE 1** to this report.

Following an initial review of the development application and the first public exhibition period, Council instructed the owner of the property to cease all construction works and activities associated with the proposed development.

Purpose of this report

This report provides an overview of Council's assessment of the proposed development against relevant state and local planning legislation and in consideration of the submissions received during two public exhibition periods. An extensive assessment of the proposed development is provided in this report which addresses issues raised by Council's assessment team and in the submissions received.

Council needs to be satisfied that based on the recommended conditions of consent, designed to specifically address ongoing operational and environmental management practices, the proposed development satisfies the objectives of RU1 Primary Production zone, in which the proposed development, an "intensive livestock agriculture" use, is permissible in accordance with the Tamworth Regional Local Environmental Plan 2010.

Recommendation

That the Development Application be approved subject to the recommended conditions that address construction phase and ongoing operational and environmental management requirements for the proposed feedlot facility.

**DESCRIPTION OF PROPOSAL:**

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The proposed development involves a change of use from cattle handling yards to a 999 head cattle feedlot which is located on Lot 33 DP 755329. The subject primary property is known as “Lloma” 252 Pendene Road LOOMBERAH. The subject development application includes Lot 29 DP 755329, Lot 33 DP 755329, Lot 34 DP 755329 and Lot 282 DP 587888. The specific details of the proposal are as follows:

#### *Construction*

- construction of a manure holding area immediately to the west of the yard area to temporarily store manure prior to land application;
- civil works to construct two (2) small drainage holding lagoons and contours below yards on either side to capture and divert surface runoff generated from the footprint of the feedlot to drainage holding lagoons;
- minor civil works to construct contours above the area of the yards to divert clean surface flows;
- construction of a sick pen;
- one (1) feed bunker (6m x 20m) containing three (3) bays;
- relocation of silo structure from within the site to adjacent to the feed bunker;

#### *Operations*

- operation of a 999 head (maximum) cattle feedlot in existing cattle handling yards. The feedlot will be stocked initially over a period of around 13-17 weeks with each of the six (6) pens being stocked in 2-2.5-week intervals with around 165 head. Once stocked, each pen will then be sold out when finished which is expected to be after 13-17 weeks;
- movement of finished cattle out of the feedlot every 2-2.5 weeks and the movement of replacement cattle in;
- it is proposed to spread cattle manure and effluent from the feedlot on paddocks on Lot 33 DP 755329. Contingency will also be built in to allow for spreading on other lots (Lot 29 DP 755329 and Lot 34 DP 755329 and Lot 282 DP 587888);
- the feedlot will operate with one (1) full time farm manager. Other personnel on site will be contracting teams for fodder production, pen cleaning and stock movement;
- the hours of operation will be restricted to daylight hours;
- the existing cropping on the site will be utilised to provide feed for the cattle in addition to import of brewers grain or similar, sourced from off site;
- the existing Lloma cattle yards will continue to be used to receive, draft and despatch cattle from the feedlot;
- cattle being received for induction into the feedlot will spend one to two hours in the Lloma cattle yards while they are drafted, inoculated and/or drenched before being walked up to the feedlot;
- cattle being despatched will be walked down to the existing Lloma cattle yards, to be weighed and loaded onto a truck;

*The existing structures that will be associated with the proposed feedlot include:*



- six cattle handling yards (62.5m x 40m) enclosed by heavy duty post and cable stock fencing and surfaced with compacted gravel;
- two concrete feed bunks running the full length of each yard areas and accessible directly from a central feed road;
- a shade sail structure consisting of wires tensioned to 2 x steel vertical truss units on either end of the yard area to support shade sail material;
- a six metre stock laneway on the downslope 2 sides of the yards;
- several contours existing on site;
- a feed laydown area to the north west of the yard area constructed with compacted gravel;
- a 250,000 litre water tank receiving water from a bore on site; and
- water supply reticulation and troughs.

The proposed feedlot is to be designed and operated generally in accordance with the Meat and Livestock Australia's *National Guidelines for Beef Cattle Feedlots in Australia* 3rd Edition. The *National Guidelines for Beef Cattle Feedlots in Australia* sets standards for drainage systems, separation distances, effluent and manure utilisation and pen pad construction.

The applicant has also advised that the feedlot intends to obtain accreditation through the *National Feedlot Accreditation Scheme* (NFAS). NFAS is an independently audited quality assurance scheme initiated by Australian Lot Feeders Association (ALFA) and managed by the Feedlot Industry Accreditation Committee (FIAC). By entering into the scheme, the feedlot facility will be audited regularly by independent inspectors. A recommended condition of consent will be included requiring the feedlot facility to be entered into this scheme.

The Statement of Environmental Effects is **ATTACHED** to this report, see **ANNEXURE 1**.

The Plan Set is **ATTACHED** to this report, see **ANNEXURE 2**.

#### **SUBJECT SITE AND LOCALITY MAP:**

The proposed feedlot is located at the property known as 'Lloma' at 2524 Pendene Road, Loomberah which is approximately fifteen kilometres to the south east direction of Calala, approximately ten kilometres to the north west direction of Woolomin and approximately seven (7) kilometres south direct of the Tullamore Heights rural/residential estate. The New England Highway is approximately fourteen kilometres directly to the west of the subject site which is accessed via Duri-Dungowan Road and Pendene Road.

The site has frontages to Pendene Road, Monteray Road and Duri-Dungowan Road. The site access to the feedlot is proposed via Pendene Road. The subject lot sizes are as follows:

- Lot 33 DP 755329 - 205.93 Ha
- Lot 29 DP 755329 - 202.57 Ha
- Lot 34 DP 755329 - 201.56 Ha
- Lot 282 DP 587888) - 177.34 Ha

The site is undulating with evidence of historic farming practices such as dryland grazing and cropping. The land has been modified substantially over time to assist these farming

practices as identified by the existing contours, dams and evidence of paddocks cleared of trees/vegetation. There remain pockets of vegetation along ridgelines, near waterways and along Pendene Road and Monterey Road boundaries.

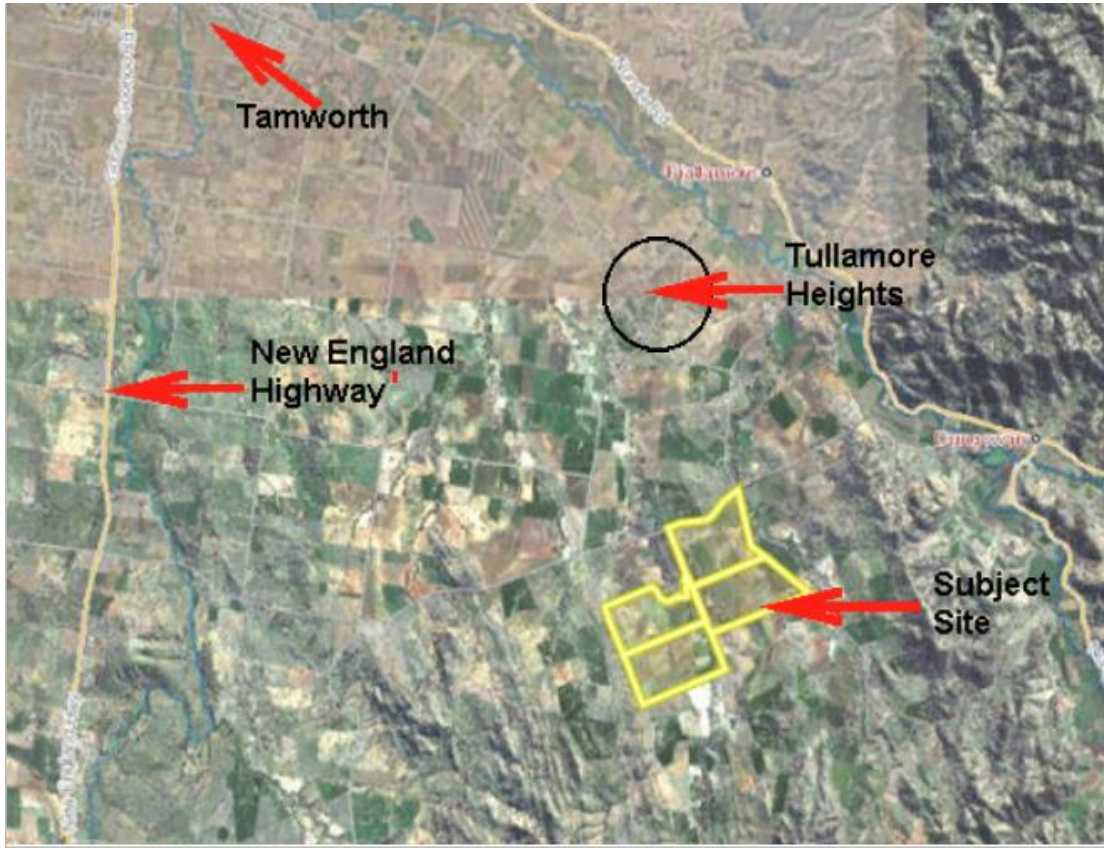


Figure 1– Locality Map

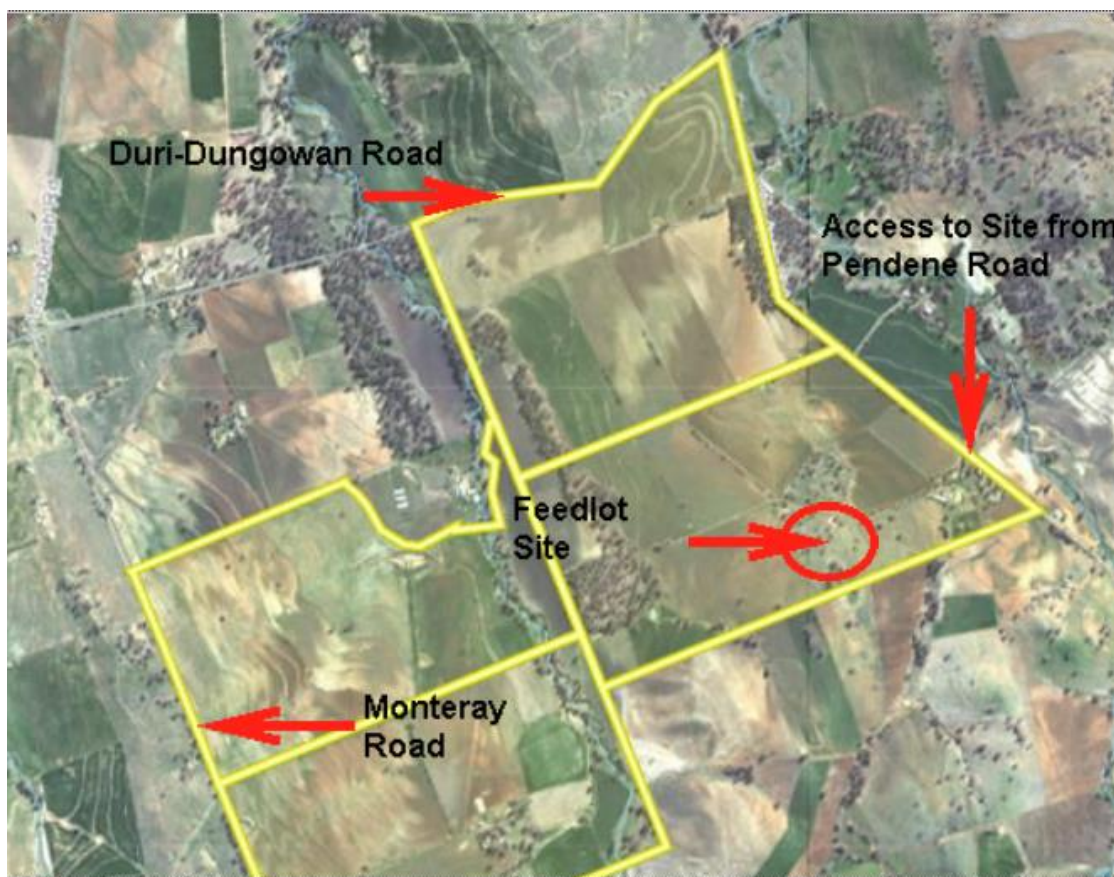


Figure 2– Subject Site

#### **BACKGROUND:**

Council was first made aware of construction activity at the subject site when a complaint was received relating to the suspected unauthorised transportation of earthwork material at “Lloma”, 252 Pendene Road on the 27 August 2020.

Staff from Council’s Compliance Division undertook a site inspection and met with the owner of the property following the complaint. On the 30 August 2020, Council received advice from the property owner regarding the construction of drought feeding and cattle handling yards. The advice stated that the yards were to be used for “cattle yards for husbandry practices, weaning and as a future drought feedlot in preparation for future drought events”. The advice also stated that the yards could not be used as a feedlot within obtaining development consent.

On 8 December 2020, Council received the subject Development Application for a change of use to a feedlot.

#### **REFERRALS:**

Due to the size of the proposed feedlot and the standard cattle units being less than 1000 head, the proposed development was not required to be notified to any external state government agencies. Council did however seek advice from the Department of Primary Industries (DPI) and the Environmental Protection Authority (EPA).

[Environmental Protection Authority \(EPA\)](#)

The EPA confirmed that the proposal did not require an environmental protection licence under the Protection of the Environment Operations Act 1997. This advice was on the basis that the proposal is not being undertaken by or on behalf of an NSW Public Authority nor is the proposed feedlot a scheduled activity for which the EPA is the appropriate regulatory authority. Whilst the EPA does not have regulatory involvement in this Development Application, advice was provided to Council with respect to matters that should be considered in the process of determining the Development Application. The specific matters raised by the EPA that should be addressed were:

- air Issues - air quality, odour and dust emissions;
- water quality;
- waste management; and
- use of effluent by irrigation.

Department of Primary Industries (DPI)

The DPI confirmed that it does not have any regulatory involvement in this development application. However, advice was provided to Council following a review of the proposal development, recommending that Council consider the following specific matters:

- nutrient budgeting;
- carcass disposal;
- sick pens; and
- heat load assessment.

The DPI also referred Council to its Environmental Assessment requirements for assessing feedlot applications. An assessment generally against these requirements in addition to the other matters raised by both the EPA and DPI are addressed in Section 4.15C(1)(b) of this report discussing the likely impacts of development.

A copy of the EPA and DPI responses is **ATTACHED**, see **ANNEXURE 3**.

Tamworth Regional Council - Development Engineering Division

The Development Engineering Division notes the initial submission for this change of use application was supported by a Statement of Environmental Effects that mis-stated the proposed access route, citing Tongues Lane and Fishers Lane as the designated B-Double route. When questioned by Council as to the proposed transport route, the proposed route was subsequently redefined (by the applicant) as being Duri-Dungowan Road and Pendene Lane.

An assessment of the route swept paths was prepared and it was concluded by the applicant's consultant that further investigation be undertaken (post approval). There will need to be some upgrading of the intersection of Pendene Road with Duri-Dungowan Road should the change of use be approved. It is noted that the assumptions in the Statement of Environmental Effects with regards to total traffic volumes are conservative, and the estimated average traffic volumes are therefore likely to be overstated. The traffic generation will not be spread uniformly with respect to time. The anticipated volumes will fluctuate either side of the projected average. Notwithstanding, the projected traffic volumes are modest (just over five (5) vehicle movements per week), and even accounting for fluctuations, will not push any of the road network elements to saturation point. The issue to be managed is more one of intersection and access geometry to accommodate the larger vehicle swept paths

without impacting on safety for other road users, and the integrity of public infrastructure. Based on the assessment of the proposed traffic volumes, Development Engineering is satisfied that subject to some intersection geometry upgrades, the road network is more than capable of accommodating the additional traffic.

The impact of stormwater runoff from the feedlots and associated infrastructure will need to be managed, both in terms of water quality and peak runoff rates. A number of recommended conditions of consent are recommended which stipulate requirements to ensure that the adjoining properties are not increasingly affected as a result of this proposal. This includes measures such as:

- requiring all roof water and concentrated surface stormwater discharging from the development site, buildings and works to be conveyed to the approved point of discharge;
- on-site detention shall be provided such that peak flow rates from the site are at or below pre-development levels for all storms up to and including the critical 1%AEP (1 in 100-year ARI) event;
- 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 uncontrolled overland flows discharging onto adjoining properties shall be implemented; and
- 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.

The Engineering design plans, reports and calculations must also be prepared in accordance with Council's current version of the Engineering Design Minimum Standards for Subdivisions and Developments for stormwater drainage works and upgrades to roads.

It is noted that there is a suite of recommended conditions around the management of water from the feedlot containing contaminants. The conditions include capturing this runoff separately from other site runoff and directing it to effluent lagoons. These lagoons are sized to hold runoff from particular storm events. The stored runoff is then used to irrigate the property at varying rates dependent upon latent conditions. This suite of conditions is all about water quality. The lagoons are not "detention basins" as such, and they are not designed in the same way as detention basins. The capacity of the lagoons will definitely be exceeded on occasions. The essence of satisfying the stormwater conditions will be to augment to lagoons with downstream infrastructure, only to the extent necessary to knock the peak off the most extreme storm events. It is further noted that, by definition, any residual contaminants in these flows will be highly diluted. It is further noted that the direction of runoff from the development is to the north and west, traversing substantial distances of grazing land, with associated filtration and uptake of nutrients along the way.

#### Tamworth Regional Council - Environmental Health Unit

The Environmental Health Unit reviewed the original Level 1 Odour Assessment undertaken by the Applicant and requested further information. The comments provided by the Environmental Health Unit, specifically with regard to the assessment of the revised Level 1 Odour Assessment undertaken by the Applicant are provided in Section 4.15C(1)(b) of this report.

Environmental Health has also recommended conditions of consent which address many of the concerns raised in the submissions. Ongoing operational and environmental

management will be required by an approved Operational and Environmental Management Plan (OEMP) and reporting annually in an Operational and Environmental Report that will be provided to Council for review.

**ASSESSMENT REPORT:**

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

**4.15C(1)(a)(i) Provisions of any environmental planning instrument**

**NSW Acts and Regulations**

*Environmental Planning and Assessment Regulation 2000:*

The development application proposes a cattle feedlot that will not accommodate more than 1000 head of cattle and therefore is not categorised as designated development, as defined by Schedule 3 of the Regulation. Therefore, an environmental impact statement is not required to be submitted for this development.

Council is satisfied that the applicant has submitted sufficient documentation that must be included as part of any development application as defined by Schedule 1, *Part 1 - Development Applications* of the Regulation.

Clause 246B of the Regulation sets out how development application fees are calculated. In receiving the development application, Council requested further details from the applicant regarding the estimated cost of works which was originally submitted with a capital investment value of \$50,000.00. The cost of works was revised to include all works (including works associated with the installation of the cattle handling yards at the request of Council) which totalled \$840,000.

Whilst the figure nominated in the development application is \$840,000, the actual cost of the works yet to be carried out as per the proposed development is \$195,000, being for the grain bunker (\$45,000), grain shed (\$80,000), drainage works (\$50,000) and water installation (\$20,000). The determination of the estimated cost of works for the subject application is based on guidance provided by the NSW Planning Circular – *Calculating the genuine estimated cost of development* which states that development application fees are calculated by having regard to, among other things, the estimated cost of development. This does not include the cost of the structures and works already carried out (lawfully or otherwise) because that is not part of the *proposed* physical works.

A copy of the Planning Circular – Calculating the genuine estimated cost of development is **ATTACHED**, see **ANNEXURE 4**.

*Environmental Planning and Assessment Act 1979*

The proposed development was assessed against the provisions of Section 4.46 of the Environmental Planning and Assessment Act 1979 (EPA Act) to determine whether the application triggers integrated development provisions. Integrated development is development (not being State significant development or complying development) that, in order for it to be carried out, requires development consent and approvals from other specified Acts. An assessment of each relevant Act is provided below which demonstrates that the proposed development is not integrated development:

*Protection of the Environment Operations Act 1997*

The Protection of the Operations Act 1997 (POEO Act) objective is to achieve the protection, restoration and enhancement of the quality of the NSW environment. The POEO Act, also

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sets out the requirements for an activity to be classified as a scheduled activity, which would require a license from the Environment Protection Authority (EPA).

Schedule 1 of the POEO Act nominates livestock intensive activities which include cattle accommodation. Cattle accommodation is defined as a *confinement area for rearing or fattening (wholly or substantially) on prepared or manufactured feed (excluding facilities for drought or similar emergency relief)*. Any cattle accommodation having the capacity to accommodate more than 1,000 head of cattle, at any time is a scheduled activity under the POEO Act, which would require an EPA licence. For this proposal, which is for a 999 (maximum) head cattle feedlot, a referral to the EPA was not required nor must an EPA licence be obtained.

A recommended condition of consent is included confirming the maximum permitted head of cattle must be 999 standard cattle units.

#### Roads Act 1993

The proposed development is not integrated development according to the Roads Act 1993 as concurrence with Transport for NSW is not required under Section 138 in this instance.

#### Rural Fires Act 1997

The Rural Fires Act is not triggered by this proposal as authorisation under Section 100B of the Rural Fires Act 1997 in respect of bush fire safety of subdivision of land is not relevant. The proposed development is not for a residential, rural residential purpose or for a special fire protection purpose.

#### Water Management Act 2000

The proposed feedlot site is not within 40m of a watercourse, and any effluent / manure spreading or irrigation will be required to be undertaken at least 50 metres from any watercourse. Therefore, no water use approvals, water management approvals or approvals to carry out works on water front land is required to be issued in accordance with the Water Management Act 2000.

#### Biodiversity Conservation Act 2016

- The Biodiversity Conservation Act 2016 (Bio Act) provides the basis for the Biodiversity Offset Scheme (BOS). Where a development or an activity is “likely to significantly affect threatened species”, a Biodiversity Development Assessment Report (BDAR) must be prepared and the consent authority is required to consider the likely impact of the proposed development on biodiversity values before granting approval.

According to the Bio Act, a BDAR may not be required if the threshold test under Section 7.3 is passed which relates to whether proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats.

The applicant’s assessment of flora and fauna on the subject site considers there to be an extremely unlikely impact on any threatened or endangered species or threatened ecological communities. The following comments were made by the applicant in this regard:

- *site inspection by author did not identify conspicuous threatened flora species on site. Other than insects, fauna was not observed on site;*
- *the site has a very long history of large animal grazing (cattle) with resultant highly modified grass flora present on and adjacent to the site of the proposal;*

- *connective corridors joining areas with potential to contain threatened species or communities (riverine corridors to the east and west) are absent, and in fact passage between these areas is prevented by areas of cropping on riverine flats;*
- *the absence of extant vegetation from the site, or areas adjacent to the site, other than isolated trees;*
- *the presence of existing historic soil conservation contours on site indicating the site was subject to significant disruption during construction of these contours;*
- *the presence of a large number of invasive weed species on the subject site.*

The applicant provided further commentary identifying the feedlot area is wholly categorised as Category 1 – Exempt land (as defined within the meaning of Part 5A of the Local Land Services Act 2013); that the land is not identified as an area of outstanding biodiversity value and that the land is not identified as ‘Regulated’ on the Native Vegetation Regulatory Map.

It is noted that based on aerial imagery available, there did appear to be a small scattering of trees (less than ten (10)) located on the subject site which have now been removed as a result of the works undertaken prior to the lodgement of the Development Application. The submitted plans do not show any trees likely to be threatened for removal by any resultant approved structures. Based on the details provided above, Council can be satisfied the development does not trigger entry into the Biodiversity Offset Scheme.

### **State Environmental Planning Policies**

#### State Environmental Planning Policy (State and Regional Development) 2011

Schedule 1 of the State Environmental Planning Policy (State and Regional Development) 2011 nominates Development for the purpose of intensive livestock agriculture that has a “capital investment value” of more than \$30 million to be considered State Significant Development. Schedule 7 of the Policy nominates general development with a “capital investment value” (CIV) of more than \$30 million to be considered Regionally Significant Development. The capital investment value for the proposed development is less than \$30 million and therefore is not State or Regionally significant development.

#### State Environmental Planning Policy No.33 – Hazardous or Offensive Industry (SEPP 33)

SEPP 33 requires the consent authority to consider whether the proposal is a potentially hazardous or offensive industry that without the implementation of appropriate impact minimisation measures would, or potentially would, pose a significant risk in relation to the locality, to human health, life or property, or to the biophysical environment.

The proposed development may be categorised as a potentially offensive industry under the definition in SEPP 33. The *Hazardous and Offensive Development Application Guidelines Applying SEPP 33* (Department of Planning January 2011), Appendix 3, indicates that livestock operations may be potentially offensive as the source of the offence being waste, is further defined as waste impacting on air and water.

The key consideration in the assessment of a potentially offensive industry is that the consent authority must be satisfied there are adequate safeguards to ensure emissions from a facility can be controlled to a level at which they are not significant. This can be controlled if the operation is undertaken in compliance with conditions of consent. Specifically, management controls relating to odour management and water and soil monitoring will be required as part of an OEMP to be prepared and approved by Council prior to commencement of operations.



State Environmental Planning Policy (Primary Production and Rural Development) 2019 (SEPP PPRD)

State Environmental Planning Policy (SEPP) No. 30 (Intensive Agriculture) and State Environmental Planning Policy (Rural Lands) 2008 (Rural Lands SEPP) was repealed by cl. 8 (1) of the SEPP PPRD with effect from 28 February 2019. SEPP PPRD requires consideration of the economics and development of lands for primary production to reduce land use conflict and sterilisations of rural lands.

The subject site is not identified as being State significant agricultural land. The development does not significantly alter the ability of the land, or surrounding land owners, to continue to undertake agricultural pursuits. The operator of the facility will be required to carry out measures contained within an approved OEMP to reduce land use conflicts and potential sterilisation of the land for long term primary production purposes.

An aspect of this proposal which has been raised as a concern by objectors was the manner in which the existing cattle handling yards (proposed to be used for the feedlot) was constructed prior to the lodgement of a development application.

The applicant has stated that the owner of the subject land, in undertaking the cattle handling yards construction without approval relied on Part 4, Section 18 (2) a) and b) of the SEPP PPRD. Section 18 allows development for the purpose of emergency feeding of livestock in response to emergency conditions including drought, and development for the purpose of temporary husbandry purposes. The applicant indicated that construction of the yards would allow them to be used in the event that feeding is not viable at the subject site. At the time of installation (August 2020) the region was drought declared.

The proponent maintains that by following Part 4, Section 18 (2) a) and b) of the SEPP PPRD, they are satisfied that the cattle handling yards could be constructed without approval.

Council has obtained a legal opinion on this matter to consider whether the cattle handling yard works were undertaken either lawfully or unlawfully and as to whether Council should be comfortable in determining this development application. In reviewing the applicant's legal interpretation against the provisions of the SEPP PPRD and the legal opinion received, Council can accept that there is an argument that the yards, if built for the stated purpose by the applicant were permissible *without consent*. However, it is considered that the construction of the yards does not appear contain a temporal requirement (c118(2)(a)). Regardless of the view of whether the works are considered temporal or permanent, it does *not* impact on the ability of Council to continue its assessment and determination of the DA which seeks consent to change the use of the as-built works to a feedlot. Council should be satisfied that the application can be determined subject to a condition requiring structural certification be provided for the heavy-duty post and cable stock fencing and shade sail structure in accordance with the National Construction Code prior to the issue of an occupation certificate.

The legal opinion obtained by Council in relation to this development application is **ENCLOSED**, see **CONFIDENTIAL ENCLOSURE 1**

State Environmental Planning Policy (Koala Habitat) 2020 (Koala SEPP):

State Environmental Planning Policy (Koala Habitat Protection) 2020 applies given the application was lodged with Council on 8 December 2020 prior to the commencement of State Environmental Planning Policy (Koala Habitat Protection) 2021 on 17 March 2021. Tamworth Regional Council also does not possess a Koala Plan of Management; therefore, the Koala SEPP applies to the site.

The Koala SEPP requires the consent authority to be satisfied that the proposed development will not have a detrimental impact on core koala habitat. The subject site is heavily modified from historic agricultural practices such as grazing and cropping, but still contains scattered trees and clusters. The proposed development does not involve the removal of any trees. The applicant has assessed the site with regards to potential Koala habitats. The following comments are provided by the applicant:

- *no evidence of a resident population of koalas was detected during the assessment (i.e. No koala individuals, scats or scratch marks were identified);*
- *the existing trees within the subject site are isolated in the landscape and are therefore unlikely to be fed upon by koalas;*
- *all trees were identified as young (i.e <15 years old) and are likely to have been planted; and*
- *only one historical record of a koala occurs within 5 km of the study area.*

As there are no trees proposed to be removed, it is concluded that the proposal does not pose any significant impact to the site's current or potential value as viable koala habitat and further investigation is not warranted.

State Environmental Planning Policy No. 55 – Remediation of Land:

Pursuant to Clause 7 of the SEPP, Council, as the determining authority is required to give due consideration to the existence of potential site contamination and to establish if the proposed use of the site is suitable as a result. It is considered that the risk of discovering significant contamination within the subject site is considered to be low given the historic use of the land for traditional cropping and grazing.

A search of Council records has not revealed any evidence of contamination occurring upon the site. A site inspection carried out by Council's staff raised no immediate concerns with regard to on-site contamination.

The applicant has conducted a search of the EPA's 'List of NSW contaminated sites notified to the EPA' and 'POEO Public Register' which revealed no contaminated sites listed in or around the site and no licences provided under the Protection of the Environment Operations Act in proximity to the site.

Council requested an assessment to be carried on the source of the earthwork materials used in the construction of the cattle holding yards prior to the lodgement of the development application. An investigation of the site from which the materials was sourced was undertaken by *East West Geo Ag Enviro* in the form of a Material Validation Report. Ten (10) samples of the excavated natural material (ENM) was collected from the site at Goonoo Goonoo Station, Tamworth.

The investigation by *East West Geo Ag Enviro* collected samples to determine whether the materials were able to be reused at another site. Validation of this material as excavated natural material was confirmed.

A copy of the Material Validation Report ENM test result for Goonoo Goonoo Station Quarry prepared by East West Geo Ago Enviro is Appendix C of the Statement of Environmental Effects **ATTACHED**, see **ANNEXURE 1**.

Given the subject sites historic agricultural use and proposed ongoing agricultural operations and following confirmation of the results from the *East West Geo Ag Enviro* Report it is not considered that the subject activity is likely to result in or being affected by any contamination of the site. Recommended conditions are proposed regarding future discovery of

contamination on site and the appropriate storage of oils, fuels and the like associated with the subject operations.

### **Local Environmental Plan**

#### Tamworth Regional Local Environmental Plan 2010 (TRLEP 2010):

In accordance with TRLEP 2010, the site is located within the RU1 Primary Production land use zone and the proposed feedlot is defined as "intensive livestock agriculture", which is permissible development with consent. *Intensive Livestock Agriculture* is defined in the TRLEP 2010 as:

*".. the keeping or breeding, for commercial purposes, of cattle, poultry, pigs, goats, horses, sheep or other livestock, and includes any of the following—*

*(a) dairies (restricted),*

*(b) feedlots,*

*(c) pig farms,*

*(d) poultry farms,*

*but does not include extensive agriculture, aquaculture or the operation of facilities for drought or similar emergency relief.*

The development proposal has been assessed with regard to the objectives of the RU1 land use zone and it is considered it will add to the diversity of land uses within the subject rural setting; assist in encouraging diversity in primary industry and has addressed land use conflict concerns in the submitted documentation. Should the development appropriately comply with conditions of consent, there should be minimal land use conflict/impacts (in relation to odour, vehicle movements, dust, soils and water monitoring). Recommended conditions of consent have been imposed to assist in ensuring that compliance with zone objectives is maintained over the lifespan of the subject operation.

It is acknowledged that a number of submissions raised concerns relating to land use conflicts. Council's assessment concludes that these objectives can be met appropriately by the operator of the feedlot through proper management of the measures that are stipulated in the Operational and Environmental Management Plan (OEMP).

Clause 5.18 of the TRLEP 2010 aims to ensure appropriate environmental assessment is undertaken for developments relating to intensive livestock agriculture. Clause 5.18(3) requires the consent authority to take the following into consideration in determining whether or not to grant consent;

- a) *the adequacy of the information provided in the statement of environmental effects or (if the development is designated development) the environmental impact statement accompanying the development application,*

**Comment:** As previously discussed, the proposal is not designated development and therefore the applicant has prepared and submitted a Statement of Environmental Effects to accompany the Development Application. This report has also mentioned previously that the documentation submitted with this application complies with Schedule 2 of the Environmental Planning and Assessment Regulation 2000. During the assessment of this application further information was requested to address key planning considerations and concerns raised in the submissions. Advice from specialised external agencies and referrals to internal agencies also occurred. Following receipt of additional information supplied by the applicant, it is considered

that the issues raised throughout the assessment have been addressed, and Council can be satisfied that adequate information has been provided for this development application.

- b) *the potential for odours to adversely impact on the amenity of residences or other land uses within the vicinity of the site;*

**Comment:** In consideration of the EPA Technical Framework. A Level 1 Odour Assessment was required to be submitted by the Applicant to determine the potential impacts from odour on nearby residential receptors. Council has assessed the Level 1 Odour Assessment provided by the Applicant to ensure an appropriate odour assessment has been conducted.

Council's assessment has concluded that the proposed development is unlikely to have adverse odour impacts provided appropriate operational and environmental management practices are conducted during the operation of the feedlot. An OEMP will be required to be prepared prior to operation of the facility, it must also be reviewed and approved by Council. The parameters of the OEMP are stipulated in the recommended conditions of consent. Odour impacts are discussed in detailed within Section 4.15C(1)(b) of this report.

- c) *the potential for the pollution of surface water and ground water;*

**Comment:** The management of the facility will require ongoing monitoring of surface and groundwaters. This is stipulated in the recommended conditions of consent and will be required as part of the OEMP that will be required to be prepared and approved prior to operation of the facility. An assessment of the surface and ground water impacts is provided in Section 4.15C(1)(b) of this report.

- d) *the potential for the degradation of soils;*

**Comment:** The potential for degradation of soils is an impact consideration for the proposed development as the proposed development includes spreading of solid dried effluent on paddocks, in addition to the spraying of wet effluent. The primary issue will be the management of manure and effluent spreading on the property. Subject to the ongoing monitoring, appropriate management practices and compliance with the recommended conditions of consent, it is concluded the proposed feedlot will not lead to an increase in the degradation of soils. An assessment of soil degradation is provided in Section 4.15C(1)(b) of this report.

- e) *the measures proposed to mitigate any potential adverse impacts;*

**Comment:** Measures proposed to mitigate potential adverse impacts will be required to be detailed in the OEMP. Council can be satisfied that subject to the ongoing monitoring, appropriate management practices and compliance with the recommended conditions of consent, the proposed feedlot will mitigate potential adverse impacts.

- f) *the suitability of the site in the circumstances;*

**Comment:** The subject site is located on land zoned RU1 Primary Production in accordance with the Tamworth Regional Local Environmental Plan 2010. The submitted documents demonstrate the proposal is suitable and will not lead to an unreasonable impact on the surrounding locality.

- g) *whether the applicant has indicated an intention to comply with relevant industry codes of practice for the health and welfare of animals;*

**Comment:** The applicant has advised that they intend to comply with relevant industry codes of practice and to submit to NFAS accreditation which requires annual third-party auditing against relevant industry codes of practice and regular inspections. This is consistent with:

- truck movements calculation assumptions contained in *Australian Animal Welfare Standards and Guidelines Land Transport of Livestock Edition 1 Version 1.1 2012*;
- *Australian Animal Welfare Standards and Guidelines Cattle Edition One Version One 2016 Section 10* relating to feedlots. Specifically, the proposed stocking density of 15 m<sup>2</sup>/animal exceeds the minimum required area of 9 m<sup>2</sup>/animal; and
- the OEMP outline lodged by the applicant identifying operational parameters which are the primary concern of the *Australian Animal Welfare Standards and Guidelines Cattle Edition One Version One 2016 Section 10*;

The feedlot will be required to operate generally in accordance with the *National Guidelines for Beef Cattle Feedlots in Australia*, 3rd Edition by Meat and Livestock Australia and other relevant code of practices and Australian Standards.

- h) *the consistency of the proposal with, and any reasons for departing from, the environmental planning and assessment aspects of any guidelines for the establishment and operation of relevant types of intensive livestock agriculture published, and made available to the consent authority, by the Department of Primary Industries (within the Department of Industry) and approved by the Planning Secretary;*

**Comment:** The relevant published guidelines is called the “Planning Guidelines Intensive Livestock Agriculture Development 2019”. The guidelines contain “Best Practise” guidelines for the planning, design, construction and management of feedlots, to minimise environmental impacts. The Applicant provided the following in regards to compliance with the relevant planning guidelines:

- *GGP departed from the Planning Guidelines in that it elected not to engage in formal consultation with neighbours identified in Part 2.1 and 2.3. The yards were constructed by GGP, legally, without consultation of neighbours. The reason for this departure is that consultation for the purposes of change of use of the facility from a temporary uses yards to a feedlot would not benefit siting or design considerations after the fact for the yards;*
- *GGP has sought expert advice in developing the SoEE for the proposal in compliance with Part 2.4;*
- *for Part 4 of the Planning Guidelines GGP believes it is in procedural compliance with the development application process;*
- *GGP believes that the level of assessment is consistent with the scale and risk of the proposal in compliance with Part 3.1; and*
- *For Part 4 of the Planning Guidelines GGP believes it is in procedural compliance with the proposal application process.*

On the basis of the above assessment, Council can be satisfied that Clause 5.18 has been appropriately addressed.

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### **New England North-West Regional Plan 2036 (NENW Plan)**

The NENW Plan recognises the potential for growth of the intensive agriculture industry within the Tamworth Regional Council area and surrounding region. The Plan outlines nine Strategic Directions for the North West Slopes and Plains region in NSW. Strategic Direction Number 1 is to ‘*Expand agribusiness and food processing sectors*’. The NENW Plan encourages the following actions to be taken to achieve this goal:

- *prepare a Regional Intensive Agribusiness Strategy to foster ongoing investment and to specify guidelines for intensive agriculture, food processing and mapping for suitable future precincts for these uses;*
- *promote the expansion of agribusiness and associated value-adding activities through local plans;*
- *protect intensive agriculture clusters in local plans to avoid land use conflicts, particularly with residential and rural residential expansion; and*
- *encourage commercial, tourist and recreation activities that complement and promote a stronger agricultural sector, and build the sector’s adaptability.*

There are no current legislated intensive agriculture zones, clusters or precincts in the region. Council in its assessment has considered the importance of ensuring the proposal does not unsatisfactorily create land use conflicts with nearby residential and rural residential properties. Management of the facility to avoid the above impacts will be in accordance with the conditions of consent and primarily an OEMP. It is noted that there are no current plans for residential or rural residential expansion in the Loomberah locality.

### **Tamworth Regional Council’s Blueprint 100**

The Tamworth Regional Council Blueprint 100 is an overarching strategy that provides a roadmap towards growing the Tamworth Region to a population of 100,000 through four (4) core strategies: creating more jobs, delivering skilled workers, managing affordability, and improving liveability. There are eight (8) priority themes that make up the four (4) strategies including Priority Theme 3 – *A prosperous region*. Priority Theme 3 seeks to promote innovation and growth with food processing, being a major employment driver in the region.

The proposed feedlot aligns with Blueprint 100 in the following manner:

- the proposal will increase Tamworth’s meat and food processing capacity in proximity to existing transport networks (Priority 3.4);
- the proposed development can create more jobs by generating employment opportunities from construction and operation; and
- it can strengthen the region’s reputation for supporting local innovation and investment.

The proposed development will contribute to the expansion of the food processing industry in region.

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

There are no draft environmental planning instruments which apply to the development proposal.

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

Tamworth Regional Development Control Plan 2010 (TRDCP 2010):

There are no specific development controls within the TRDCP 2010 that apply to intensive agriculture development. As a result, the subject development has been assessed against relevant controls contained within the *Other Types of Development Controls* section of TRDCP 2010 as follows:

*Parking:*

The subject site provides adequate on-site parking and manoeuvring of vehicles (both heavy and light vehicles) associated with the day to day operations of the subject facility.

*Landscaping:*

Vegetative screening has been included on the northern, eastern and southern perimeter of the feedlot site to assist with obstructing views of the feedlot site from adjoining properties. The landscaping details includes the plant species, spacing and sizing (mature height) of vegetation and is contained within the Plan Set document **ATTACHED**, see **ANNEXURE 2**. The recommended conditions of consent will stipulate requirements for establishing and maintaining the vegetative screening for the life of the feedlot activity, including the requirement for lodgement of a bond to ensure the survival of the screening for the initial five (5) years of the operation.

*Outdoor Lighting:*

A general condition of consent is recommended to be included to protect the amenity of the surrounding neighbourhood from the emission of light in accordance with Australian Standard AS4282.

*Outdoor Advertising/Signage:*

No outdoor advertising or signage is proposed. Any signage that is not exempt development will require an approval under a separate development application.

*Tamworth Regional Development (Indirect) Contributions Plan 2013:*

Section 7.12 of the EPandA Act provides that a consent authority may impose, as a condition of development consent, a requirement that the applicant pay a levy of the percentage, authorised by a contributions plan, of the proposed cost of carrying out the development.

In accordance with the *Tamworth Regional Development (Indirect) Contributions Plan 2013*, Council may levy contributions from a development with a value greater than \$100,000 for the provision of community infrastructure.

The capital investment value for the development work proposed is \$195,000.00. The contribution payable is \$975.00 based on the 0.5% levy rate applicable. A condition of consent is recommended to require that payment of the contribution is made prior to issue of a Construction Certificate.

*Water Management Act 2000 - Water and Sewer Headwork's Charges:*

Nil applicable.

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

The site and the development proposal is not subject to a Planning Agreement.

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

The Regulations have been considered previously in this report. There are no further considerations in this regard.

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

*Site Suitability and Design.*

The subject lot containing the feedlot site is located 620 metres from the eastern boundary, 160m from the southern boundary, 1.2km from the western boundary and 1.8km to the northern boundary. There is an ample amount of land available for the yards, shed, silage bunkers, feed silos, internal roads, litter composting, stockpile areas, dead animal management and mitigation measures for odour, dust and noise impacts, water management and general amenity. Through appropriate management of the feedlot operations via an OEMP and conditions of consent, the application has demonstrated that the site is of a size that is capable of undertaking the development in an appropriate manner.

The proposed feedlot is a permissible development on the subject site, which is a relatively large agricultural holding that is zoned RU1 Primary Production and for the reasons discussed throughout this report and subject to the recommended conditions of consent. It is considered that the site is suitable for the proposed development.

*Context and Setting*

The immediate Loomberah locality (3-5km radius of subject site) is categorised by dryland cropping and grazing lots which are largely around 200 ha to 600 ha in size. The subject property and lots are consistent with lot patterns along Pendene Road, Monterey Road and Duri-Dungowan Road. There is some evidence of intensive agriculture activities in the larger Loomberah area, however it is not a predominate land use.

The potential impact this development will have on the rural amenity of Loomberah has been raised in the submissions. Council's overall assessment of the proposal has taken into consideration this issue; the appropriateness of the permissible use and whether it will have an unacceptable detrimental impact on the natural built, social and economic environment. It is important that Council's assessment considers the potential impacts associated with the use to ensure there are no long-term unacceptable impacts on the Loomberah community. These aspects are discussed largely throughout this section of the report (Section 4.15C(1)(b)).

*Views and Visual Impacts*

A visual impact assessment has been undertaken to consider the potential impact of the proposal on the rural amenity. The visual assessment carried out by Council officers identifies viewpoints at nearby and adjoining neighbouring properties and sections of Pendene Road and Duri- Dungowan Road.

In order to resolve some concerns raised in the submissions, the applicant was required to include vegetative screening plan around the three (3) sides of the feedlot. The tree species identified on the landscaping details includes Knife-leaf wattle (6m mature height), Kurrajong (9m), Crimson bottle brush (5m), Spotted Gum (20m), Mugga Iron bark (20m) and Bracelet honey myrtle (6m). All plant species selected are recommended by '*Australian Plants suitable for Tamworth Regional Council Areas*' developed by the Tamworth Group of Australian Plants Society. The variety of species and mature heights is a suitable screening measure, in particular from Pendene Road and adjoining properties to the east and south east of the feedlot.

It is acknowledged that there will remain some form of ongoing visual impact from some sections of Duri Dungowan Road, Pendene Road and sections of adjoining properties,



mainly from paddocks, this is unavoidable. Whilst there are visual lines of sight to the feedlot from adjoining and nearby properties, the visual impact is considered minor.

One noticeable feature of the existing site is the large white silage bunker cover that can be seen from many view points on nearby properties and public roads. The white sheeting is highly prominent in the landscape and as a result Council will require it to be replaced with earthier tones allowing it to blend into the landscape.

In terms of assessing the visual impact of the proposal, direction has been taken from the planning principles adopted by the Land and Environment Court of NSW. In assessing these impacts, Council has considered, the judgment of *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140. Whilst it is acknowledged there will be some form of visual impact on existing views and vistas from nearby properties and public roads the views will remain largely unchanged in consideration of the separation distances between the feedlot lot site and nearby dwellings, the scale of the development and the proposed measures to be implemented such as landscape screening and replacement of the white silage bunker cover. The feedlot will be visible in existing views; however, the highly valued views will remain unimpeded by this low scale development.

Photographs are included below showing the feedlot site and existing yards (red arrow) from a number of locations (See Figure 3).

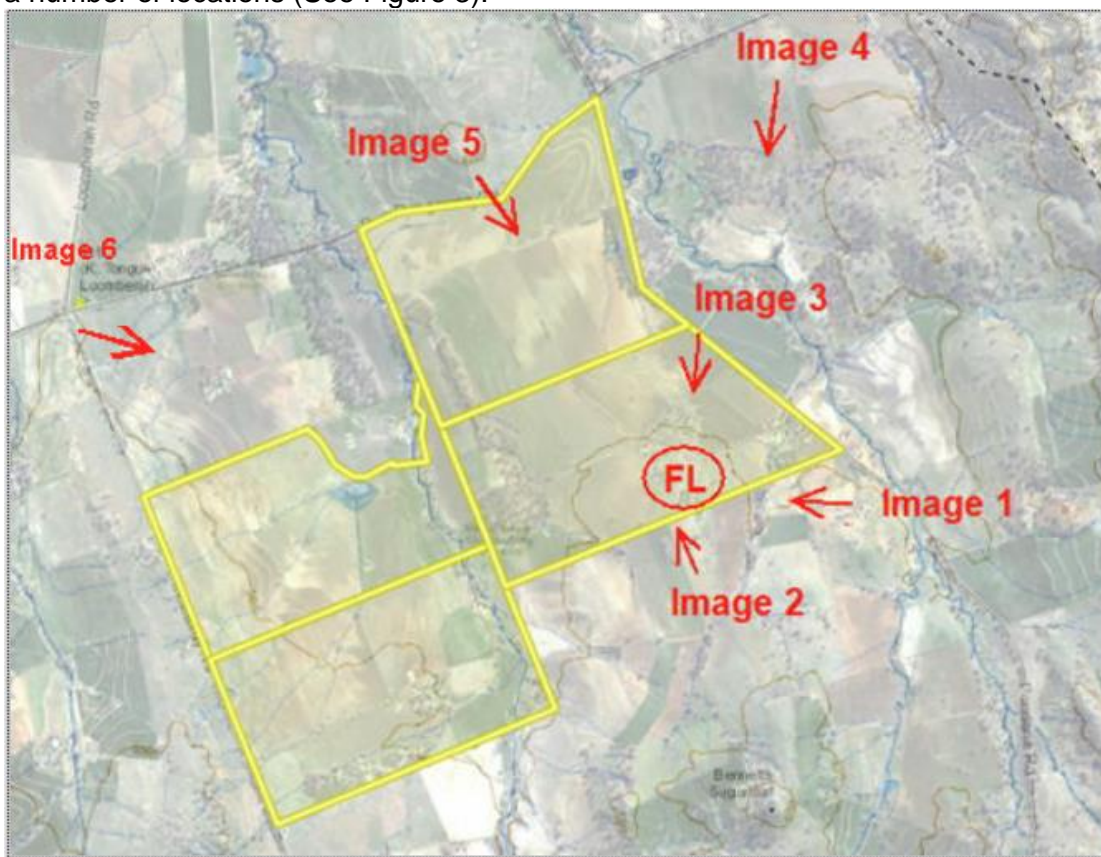


Figure 3 Map showing location of photos taken for visual impact assessment.



**Image 1** View of feedlot from adjoining residence - No. 314 Pendene Road



**Image 1a** View of feedlot from adjoining residence (same location – zoomed in)

Images 1 and 1a above show the subject feedlot is visible from the neighbouring residence to the south east. This residence is 1030 metres from the closest point of the yards area and has an unobstructed view of the centre of the yards where the elevation is higher on the centre of the ridge. This view will eventually be obstructed by the required landscape screening. As can be seen in these images, the bulk and scale of the development from the view is relatively low.



**Image 2** View of Feedlot site from paddock adjoining the subject site to the South - No. 314 Pendene Road.

Image 2 above is taken from a paddock on the same property as Image 1 and 1a. This view is looking north towards the subject site and shows an expansive view down the valley towards Tamworth city. The image is taken at the closest point to the feedlot from any other viewpoint. Vegetative screening is also proposed on the south western perimeter of the feedlot which will minimise visual impact from this location. It is acknowledged however that that the screening measure proposed will not completely eliminate the visual impact from this location.



**Image 3** View of feedlot site from Pendene Road at entrance to No. 163 Pendene Road

Image 3 is looking west from the entrance of 163 Pendene Road. An existing cluster of trees is positioned between the feedlot facility and this viewpoint. The establishment of more trees for vegetative screening will assist further to obstruct the views of the feedlot from this location.



**Image 4** View of Feedlot site from paddock on nearby property - 2524 Duri Dungowan Road



**Image 4a** View of Feedlot site from paddock on nearby property - 2524 Duri Dungowan Road (same location – zoomed in)

Images 4 and 4a is taken from paddock in a nearby property. There is a number of trees that partially obstruct views of the feedlot site. It is difficult to casually observe the fencing and shade structures; the existing white silage bunker cover is, however, obvious. Replacing the white silage bunker cover with an earthier toned colour to blend in with the landscape will improve the visual impact from this viewpoint.



**Image 5** View of Feedlot site from Duri Dungowan Road.



**Image 5a** View of Feedlot site from Duri Dungowan Road (zoomed in)

From Images 5 and 5a, there is a direct line of site from Duri-Dungowan Road to the proposed feedlot site and the existing white bunker cover is highly visible. From this location the proposed grain shed and silo will be most obvious. The replacement of the white silage bunker cover and consideration of the colour scheme of other ancillary structure's is recommended to blend in with the rural landscape.



**Image 6** View of Feedlot site from Loomberah Hall (Monteray Road)

Image 6 is taken approximately 3.8km from the subject site, the white silage bunker cover is visible, however the yards are difficult to casually observe. Replacing the white silage bunker cover with an earthier toned colour will improve the visual impact from this location.

#### Land Use Conflict

Council has considered the potential land use conflicts throughout this report. Feedlots, as an intensive industry do require constant monitoring, maintenance and upkeep to ensure impacts that might lead to land use conflicts are appropriately managed. Land use conflict will be avoided where the operator maintains good separation distances, particularly with regard to the recommended manure and effluent spreading conditions and other management practices designed to minimise the impact on sensitive receptors, including other agricultural land uses, from odour, dust and noise. The operation of the feedlot facility will be required to be undertaken in accordance with the OEMP to be implemented prior to operations commencing.

#### Odour Impacts

Emissions should not adversely impact on human health and amenity. Developments that do not require an EPA licence should not result in air pollution (including odour). As recommended by the EPA, Council has considered the *EPA's Technical Framework-assessment and management of odour from stationary sources in NSW dated November 2006* in determining whether the potential odour impacts of the proposal have been appropriately assessed.

The applicant conducted a Level 1 odour assessment in accordance with the EPA Technical Framework. Council with the assistance of the EPA and following a review of detailed submissions, requested additional information from the applicant justifying if the Level 1 odour assessment was sufficient relevant to the proposed feedlot operations. Additional information specifically related to:

- calculation of standard cattle units (SCU's) with the separation distance from the proposed feedlot pen and manure storage area; and
- further clarification in regard to the cold air drainage factor relating to the odour and the proposed feedlot operation.

It is also acknowledged that the issues above were raised in a submission received during the second public exhibition period. The applicant's response confirmed that:

- *the methodology for the calculation of SCUs, using average liveweight, is correct and consistent both with the Technical Notes and practical considerations for feedlot operation. The calculation of SCUs already contains a conservative assumption in relation to induction and finished liveweights. In addition, cattle are inducted in herds not the proposed 999 cattle in each feeding cycle to provide consistent supply of cattle to the market;*
- *as discussed in the meeting on 21 September 2021, the assumption is that cattle are inducted at 400 kg and taken off for sale at 600 kg. Both numbers are an overestimation of likely cattle weights with both Teys Tamworth and JBS Scone (the target processor markets) having cattle grids favouring lighter cattle below 550 kg liveweight. This is in relation to dimensions of meat packed for consumer sale via supermarkets. The applicant has left this conservative assumption unchanged in the reissued Level 1 Odour Assessment Report;*
- *the applicant confirmed that the primary source of odour in feedlots is when wet manure is disturbed during pen cleaning operations or when disturbing manure stockpiles to load manure for land application. This is exacerbated by wetting of manure. Pen cleaning and manure spreading operations by necessity will be carried out during the day. Cold drainage (which is a term used to describe katabatic air movement where air cools and flows from high elevation to low elevation) occurs at night; and*
- *the Applicant refers the TRC to detailed information already provided relating to maintenance of low manure depth, and frequency and timing of pen cleaning contained.*

Council is satisfied that the inconsistencies which were identified in the original Level 1 odour assessment have been adequately addressed and the method in which the Level 1 assessment was undertaken is generally in accordance with the EPA Technical Framework. Therefore, there was no warrant for Council to require further odour assessment.

It is recommended that odour management form part of the OEMP as a proactive measure and include conditions to address ongoing odour complaints during the life of the feedlot operation.

The revised Level 1 Odour Assessment prepared by the Applicant is **ATTACHED**, see **ANNEXURE 5**.

#### Dust Impacts

The applicant has stated that, generally, feedlots have potential to generate dust from multiple sources including:

- *truck movements on dirt or gravel surfaced roads;*
- *yard cleaning operations where yard surface is very dry;*
- *cattle movements within yards when yard surface is very dry; and*
- *civil construction activities during construction.*

A recommended condition of consent requires the operator to prepare and implement a Dust Management Plan. The Plan should be based on minimising vehicle speeds on public roads and when traversing unpaved tracks/roads on the property, and/or the use of dust suppression (e.g. water carts, sprinkler systems) techniques when required, to minimise the

emission of dust from the premises at all times. The Dust Management Plan will be required to be submitted as part of the OEMP.

Subject to on-going compliance with conditions of consent and industry best practice guidelines used to carry out the facility operations, it is considered that sufficient measures are in place to ensure dust impacts remain negligible for surrounding landowners over the life of the subject operations.

#### Noise Impacts

It is acknowledged that feedlots generate noise from machinery use and during periods of feeding the cattle. The following reasons have been stated by the applicant as to why noise should not be considered a significant issue:

- *low intensity of noise;*
- *infrequent noise from machinery use during feeding operations;*
- *feeding occurring during daylight hours (2 hours);*
- *the location of the yards in the midst of a large grazing property effectively isolating the proposal from any potential noise receptors; and*
- *the character of the noise being consistent with noise produced from other activities on 'Lloma' and adjacent properties.*

The applicant has undertaken noise modelling as part of the application to demonstrate the predicted noise from the feedlot. The modelling by the applicant shows a level above background of 2 dB(A). The allowable noise management level would be 5 dB(A) above the background noise level.

The hours of operation nominated in the recommended conditions of consent is daylight hours. Feeding will generally be undertaken either once or twice per day (during daylight hours) and is for no longer than two (2) hours. Other feedlot activities, such as pen cleaning will not be allowed outside the approved hours of operation. Whilst the delivery of stock will largely be undertaken during daylight hours, it is acknowledged that on occasions these movements may occur outside daylight hours due to the location of stock supplies and timetabling of the external transport companies.

A number of conditions have been recommended relating to noise abatement and reducing impacts on nearby residents, including:

- *the Applicant shall ensure that all machinery and equipment is maintained and operated in a proper and efficient manner so that noise generated from their operation does not give rise to offensive noise complaints; and*
- *the operation of this activity must not produce noise levels greater than the more stringent of the following:*

*5dB(A) above background levels (when measured as an LAeq(15 min) at the most affected point on or within the property boundary of any residential receptor); OR: The amenity criteria which is 45dB(A) (daytime), 40dB(A) (evening) and 35dB(A) (night time).*

*\*Daytime being the period from 7 am to 6 pm Monday to Saturday or 8 am to 6 pm on Sundays and public holidays;*

*\*Evening being the period from 6 pm to 10 pm and \*Night time being the remaining periods.*



### Suitability and secure water supply

The majority of water used in operation of the facility will be from the existing two bores on the subject property. The applicant has stated that two water access licences (WALs) are available for 120 ML/year and 180 ML/year totalling 300 ML/year. The expected use of water for the proposed feedlot is approximately 25 ML/year or less than 9% of the total existing WAL. The two production bores from which water may be used to supply the proposal are located at the north eastern corner of Lot 29 DP 755329 and the centre of Lot 33 DP 755329.

A recommended condition of consent is included confirming the location of the bores on each lot which are to be used for feedlot activities. Prior to operation, the operator/owner will also be required to provide evidence to Council that an appropriate WAL is available to the feedlot.

### Surface and Ground Water / Drainage (CDAs)

The Development Application was referred to Council's Development Engineering Team which provided commentary and draft conditions. Referring to comments from Development Engineering elsewhere in this report, the draft conditions aim to ensure there will be no negative impact on the existing stormwater infrastructure downstream of the development. It is noted that videos were provided by one of the neighbouring property owners showing storm flows across the top of Pendene Road during significant events that Tamworth experienced earlier in the year. These videos were distributed to Councillors for information when they were received.

It is relevant to note that the videos demonstrate possible deficiencies in the culverts under Pendene Road at this location, and this matter has therefore been referred to Council's Regional Services Directorate for assessment and prioritisation for possible upgrade alongside other similar projects. The essence of the recommended conditions is to ensure that the level of service offered by the Pendene Road drainage system is not diminished post development.

Mitigation measures are proposed in the design of the controlled drainage area to reduce the risk of groundwater leakage, such as:

- an underlay of 300 mm clay or suitable compactible soil sourced on site at 'Lloma' to ensure a more permeable base for the lagoons; and
- the lagoons will be maintained as irrigation lagoons and kept empty by pumping for irrigation.

As indicated in the recommended conditions of consent, the OEMP will stipulate the groundwater and surface water monitoring requirements to be conducted prior to the commencement of operations and ongoing data monitoring to be reported to Council in an Operational and Environmental Management Report.

Further discussion on management of effluent and manure spreading and soil degradation is discussed later in this report.

### Biosecurity and Carcass Disposal

A Biosecurity Management Plan must be provided with the OEMP which is a standard practice for farm security. The Biosecurity Management Plan will identify the operational management practices required to be undertaken to ensure management of any suspect or actual disease cases and emergency management including disease outbreaks.

For disease outbreaks, the OEMP must address the potential for such emergencies. The lead agency in a mass mortality or disease outbreak circumstance would be the Department

of Primary Industries. It is likely that this would involve mass burial or for some notifiable disease organisms, burning of carcasses (e.g. for Anthrax). As such a condition has been recommended to be included to address these potential situations.

The proposal includes that a burial pit area that will be used for disposal of dead stock. The following conditions are recommended:

- *a record of the location of dead animal pits (regular mortality and multiple mortality pits) shall be kept and made available to Council at all times. The location of the pits shall be marked on a map and the information as a minimum shall include depth of pit, number of carcasses disposed in pit, date of pit creation and date the pit was finished being used;*
- *mortalities shall be managed as per the details provided in the Amended Statement of Environmental Effects version 7;*
- *mortality pits shall be designed in a manner that they will not contaminate ground water (soil shall be impermeable to water or create an impermeable pit with at least 1.5 metres to groundwater). All pit carcasses shall be covered in sufficient soil to prevent odour, flies and pest animals being able to access the carcasses; and*
- *no burning of carcasses is permitted unless specifically directed by the NSW Department of Primary Industries in relation to biosecurity issues and/or the presence of notifiable disease outbreaks.*

A dead stock management plan will also be required as per the OEMP.



**Figure 4** – Location of Proposed Burial area (extract from SEE v.7)

### Effluent and Manure Spreading

Waste

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The amount of manure to be generated is assessed as being 500 tonnes/pa, with the manure being reused on the cropping area of the 'Lloma' property. The area available for application of manure and effluent is contained within the four (4) lots subject to this development application.

The applicant states that the area available on the property is far in excess of that required for re-use of the amount of manure produced. However, it is acknowledged that the proposal will generate animal manure which has potential to impact on nutrients by surface flows and resultant potential impacts, primarily to surface water.

Any effluent or manure spreading to occur will be restricted to minimum distances from adjoining boundaries and waterways as per recommended conditions of consent. A manure and effluent spreading plan will be required to be prepared as part of the OEMP.

The applicant has stated that a typical spreading rate for manure as a land amendment is 5 tonnes/ha/year. In practice the manure would be spread at a rate of approximately 4 tonnes/ha/year at 'Lloma' which would allow a five (5) yearly rotation of paddocks onto which manure is spread.

#### *Soil Management*

An effective nutrient removal strategy is essential for the feedlot operations to ensure that the reuse of effluent and manure on the site is managed in a sustainable manner, and that soil nutrient capacity is not overloaded. Council has considered the EPA's Environmental Guidelines: *Use of Effluent by Irrigation* which will form part of the recommended conditions.

Soil monitoring is stipulated as a requirement in the recommended conditions of consent to be addressed in the OEMP. Monitoring relevant to the feedlot operations must include details of location and time of monitoring and baseline soil tests will be required to be conducted prior to the commencement of feedlot operations to establish a soil nutrient, organic matter and chemical status. Ongoing soil testing must be stipulated in the OEMP and reported annually in the Operational and Environmental Management Report (OEMR) to ensure spreading rates do not exceed soil nutrient storage capacity and crop utilisation.

The effluent and manure spreading plan will be required to have built in contingency to undertake spreading on other lots as identified in the recommended conditions, should the soil nutrient capacity being monitored show an overloading. It is considered that soil management can be appropriately addressed through good management of the facility and compliance with relevant conditions.

#### *Animal Welfare*

The applicant has advised that they intend to comply with relevant industry codes of practice and to submit to NFAS accreditation which requires annual third-party auditing against relevant industry codes of practice. This is consistent with:

- *Australian Animal Welfare Standards and Guidelines Cattle Edition One Version One 2016 Section 10 part 10.1;*
- *Truck movement calculation assumptions are within maximum parameters contained in Australian Animal Welfare Standards and Guidelines Land Transport of Livestock Edition 1 Version 1.1 2012;*
- *Australian Animal Welfare Standards and Guidelines Cattle Edition One Version One 2016 Section 10 relating to feedlots. The proposal is in compliance with this standard, specifically, the proposed stocking density of 15 m<sup>2</sup>/animal exceeds the minimum required area of 9 m<sup>2</sup>/animal; and*

- *Australian Animal Welfare Standards and Guidelines Cattle Edition One Version One 2016 Section 10. The applicant's SoEE contains an outline OEMP identifying operational parameters which are the primary concern of this Standard.*

The proposed development includes details in relation to proposed shade structures however, an Excessive Heat Load (EHL) Management Plan will be required as part of the OEMP. This assessment will address available shade structures, heat load forecast tools and dietary management. It includes a summary of the susceptibility, preparedness and ability to manage heat load in a feedlot. It includes the feedlot's site, design, infrastructure (including water supply, shade structures etc) and management, as well as the type of stock and the feeding period. The following recommended condition has been included:

- *an excessive heat load (EHL) management plan shall be developed as part of the OEMP. The EHL Management Plan shall be prepared in accordance with advice from the Meat and Livestock Australia – Tips and Tools - "Managing Excessive Heat Load in Feedlot Cattle" or other approved guidance documents.*

The feedlot will be required to be designed, constructed and operated generally in accordance with the *National Guidelines for Beef Cattle Feedlots in Australia* 3rd Edition published by Meat and Livestock Australia, *National Beef Cattle Feedlot Environmental Code of Practice* (2nd Edition), and *Beef cattle feedlots: Design and Construction Standards* (August 2016).

#### Weed and Vermin Control

Feedlot activities shall be undertaken to minimise flies and vermin, including the use of regular baits, traps and sprays; maintaining grass areas adjacent to the feedlot; and application of insecticide repellents to cattle if required. Weed and vermin control measures are required to be included in the OEMP.

#### Traffic Movements

No particular concern is raised in relation to the number of vehicle movements associated with the proposed use, or the impacts vehicles will have on the road surfaces of Pendene Road and Duri-Dungowan Road. The overall numbers of vehicles is considered modest. However, A swept path analysis provided by the applicant's Consultant noted that upgrades to some intersection elements will be required. The day to day management of the transport vehicles will be incorporated into an approval for the upgrade of Duri-Dungowan Road and Pendene Road as a B-Double route. Council's Regional Services Directorate has advised that these two roads can be made suitable for B-Doubles with minor intersection upgrades and under-pruning of some roadside trees.

While the SoEE calculates truck movements on the basis of no backloading, the proponent intends to maximise backloading of incoming and outgoing cattle to minimise truck movements and costs. In this regard, the movement numbers projected in the SoEE may in practice be a slight overestimation.

#### Contingency and Environmental Management Plan

Council's Environmental Health Unit has reviewed the development proposal with regard to potential impacts and have provided recommended conditions of consent that will require the applicant to prepare and implement an OEMP prior to the commencement of operation of the feedlot.

The applicant will also be required to submit an annual OEMR to Council, which will enable Council to impose further environmental controls, should the need arise.

### Heritage (Aboriginal and European)

There are no known heritage sites or archaeological sites located within the subject site. The applicant has conducted a search of the NSW Government Heritage Database, with no items identified. A search of the Aboriginal Heritage Information Management System (AHIMS) was also conducted which demonstrated no Aboriginal sites on Lot 33, DP 755329.

In the recommended conditions of consent, it is stipulated that while building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant and / or Operator must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

### Bushfire

The subject site is Bushfire Prone Land according to the Tamworth Regional Council Local Environmental Plan 2010. The Rural Fires Act is not triggered by this proposal as authorisation under Section 100B in respect of bush fire safety for the subdivision of land is not relevant. The proposed development is not for a residential, rural residential purposes or development of land for a special fire protection purpose.

The bushfire threat is low, however the following measures and requirements must be in place prior to operations that are consistent with the aims and objectives of the Planning for Bushfire Protection 2019 (PBP):

- the facility will be required to provide an Emergency Operations Plan as part of the OEMP that must address the actions required in the event of a bushfire or fires caused by the feed lotting activities;
- water tanks totalling approximately 250,000 litres are available on-site; and
- the surrounding road network is considered to provide satisfactory access for fire fighting vehicles, as well as for the purposes of emergency evacuation.

### Flooding

The subject site is not identified as Flood Prone Land in the Tamworth Regional Council Local Environmental Plan 2010.

### Social, Economic or Environment Impacts

There are no noted impacts of a social, economic or environmental nature that are anticipated to have an unacceptable detrimental impact upon the subject locality. The operation of a feedlot is considered appropriate and in keeping with the rural nature of the surrounding locality. The activity utilises land that has historically been used for grazing and cropping purposes, and as such, is not expected to pose a significant risk to the natural environment or community. The development is not deemed have an unreasonable impact on the amenity of the surrounding neighbourhood subject to compliance with all recommended conditions of consent.

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

The proposed feedlot is a permissible development on the subject site, which is a relatively large agricultural holding, that is zoned RU1 Primary Production and for the reasons discussed throughout this report, and subject to compliance with the recommended conditions of consent. It is considered that the site is suitable for the proposed development.

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

The Development Application was publicly notified as required by the provisions of the Environmental Planning and Assessment Act 1979 (EPandA Act), Environmental Planning and Assessment Regulations 2000 (EPandA Regs) and generally in accordance with the Tamworth Regional Council Community Participation Plan 2019.

The application was notified to adjoining and nearby landowners. The proposed development was placed on public exhibition over the following periods;

- 23 December 2020 to 28 January 2021;

*(NB: Due to the Christmas and New Year holiday period during which this Development Application was notified and following a request made by adjoining property owners the opportunity for submissions was extended beyond the legislative 14 day period).*

and,

- 18 June 2021 to 9 July 2021

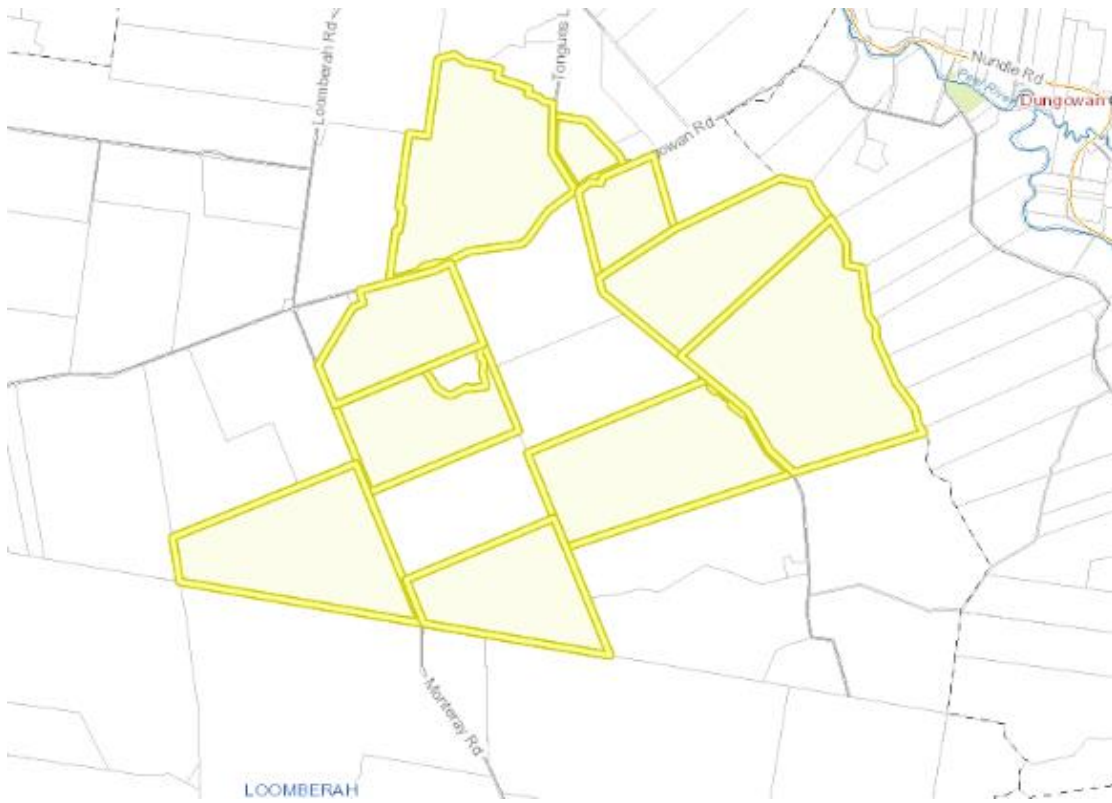
*(NB: A second exhibition period was carried out due to the changes made to the original application that was previously exhibited. Those that made submissions in the original exhibition period were also notified).*

The exhibition included letters to property owners/occupiers where, in the opinion of Council, the enjoyment of land adjoining or nearby the development may be detrimentally affected by the proposed development. The second exhibition period was extended to additional nearby property owners who were considered to be potentially affected, that were not notified in the original exhibition. The additional properties were notified mainly due to the change to the proposed transport route.

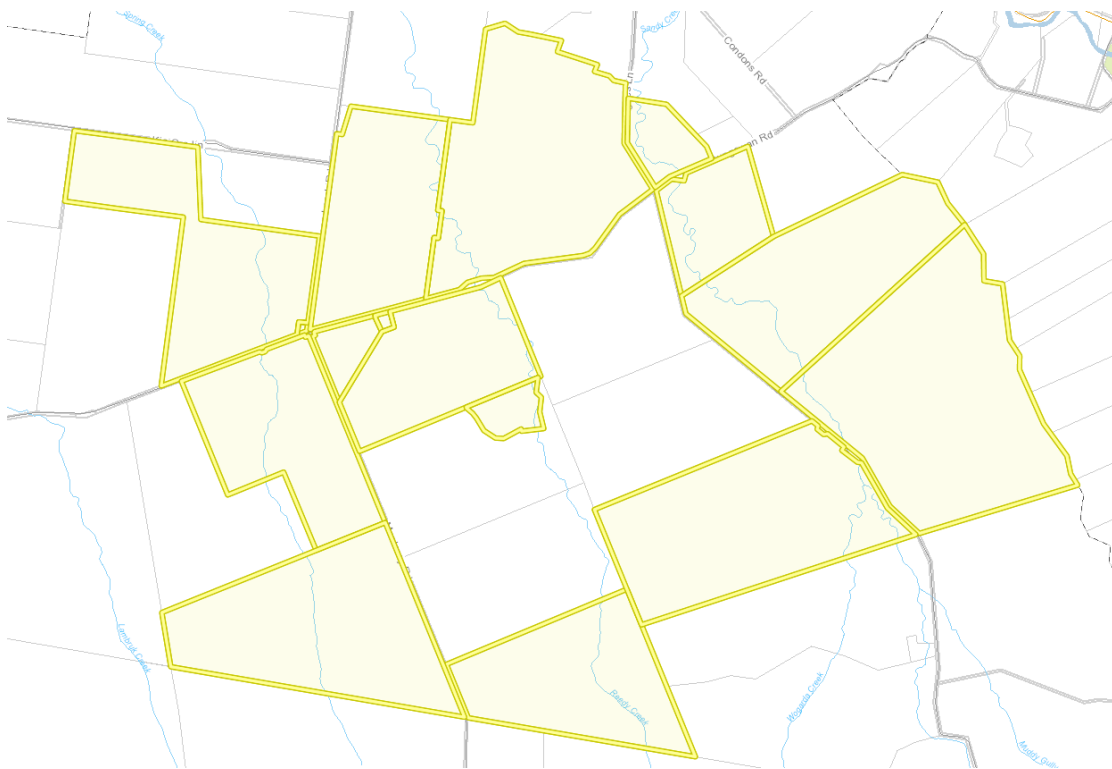
Recent COVID 19 legislation amendments to the EPandA Act and EPandA Regs came into effect on 17 April 2020 and removed the requirement for Council to advertise developments in local newspapers contrary to the requirements of Council's Community Participation (CCP). The DA was also available for viewing on Council Website and the Online Development Hub.

Following numerous correspondence from a number of residents who had lodged submissions, a meeting was held between Council staff and these residents on 12 April 2021. This meeting provided an opportunity for the objectors to raise their issues directly with Council's Assessment staff and Director of Planning and Compliance. The same group also presented directly to Councillors at a Council Public Forum session to raise their concerns about the proposal on 11 May 2021.

Over the course of the two public exhibition periods a total of sixty-seven (67) unique submissions from forty-eight (48) submitters were received by Council. Four (4) submissions were supportive or neutral and sixty-three (63) objected to the proposal. General comments made in the submissions are highlighted in the tables below with Council's response to each issue provided. The issues raised within the public submissions have been addressed within the body of this report or in the below tables. All submissions received by Council are contained and **ENCLOSED**, see **CONFIDENTIAL ENCLOSURE 2**.



**Figure 5** Notification Map – 1<sup>st</sup> Exhibition Period



**Figure 6** Notification Map – 2<sup>nd</sup> Exhibition Period

**Table 2 Community Submissions Supporting or Neutral to the Proposal**

Issue (General comments made)	Council Response
<p><b>Feedlot Design, Standards and Operations</b></p> <p>Council has received comments on the feedlot design being of a high standard.</p> <p>That the requirements for approval of a feedlot in NSW address most of the concerns raised by neighbours of proposed Lloma feedlot development, particularly those concerning protection of ground water and community responsibility.</p> <p>That the proposal a well-designed and managed feedlot provides a number of advantages directly to local community.</p>	<p>Noted</p>
<p><b>Context and Setting</b></p> <p>Council has received comments about the subject site being situated within a rural holding and part of an established farming business.</p> <p>There is a number of livestock operations of similar in nature in our district already.</p> <p>That there has been no impact on land values when these are granted.</p>	<p>Noted</p>
<p><b>Market Confidence and Employment Opportunities</b></p> <p>Council has received comments that the proposed development will have a positive impact on job growth, development for the Agricultural sector.</p>	<p>Noted</p>

**Table 2: Community Submissions Objecting to the Proposal**

Issue (General comments made)	Council Response
<p><b>Odour Impacts</b></p> <p>Submissions raised concerning the potential odour impacts associated with the proposed development.</p>	<p>This has been addressed previously in Section 4.15C(1)(b) discussing the likely impacts of development relating to odour impacts.</p>



	<p>An OEMP must be prepared and provided to Council for review prior to the commencement of operations. As required by the OEMP strict operational controls will be in place to control odour. This will include regular cleaning of the feedlot at eight (8) week intervals.</p> <p>The OEMP and recommended conditions will proactively address the issues raised in the submissions.</p>
<p style="text-align: center;"><b>Traffic Impacts</b></p> <p>Submissions raised concerns regarding the potential traffic impacts associated with the proposed development. Notably, concerns with the impact of B-Double trucks, road maintenance and capability and safety issues for cyclists and school children.</p>	<p>This has been addressed previously in Section 4.15C(1)(b) discussing the likely impacts of development relating to traffic impacts.</p> <p>A condition has been recommended that will require the developer to upgrade Duri-Dungowan Road and Pendene Road such that they are suitable for inclusion in the B-Double network. Upgrades will include improvements at the intersection of these two roads, and under pruning of some roadside trees.</p> <p>It is considered given the relatively low increase in traffic volumes that the proposal will not have a significant impact on the operation or safety of the bus routes.</p> <p>The recommendation includes a condition limiting of the feedlot to 999 standard cattle units which will in turn control heavy vehicle movements associated with the subject operations.</p>

<p style="text-align: center;"><b>Dust</b></p> <p>Submissions raised concerning the development increasing dust nuisance from vehicles as well as stock movement.</p>	<p>This has been addressed previously in Section 4.15C(1)(b) discussing the likely impacts of development dust impacts.</p> <p>The OEMP will include the requirement of a dust management plan which will include mitigation measures such use of a dust suppressant and covering of stockpiles, not permitted manuring and effluent spreading on windy days</p> <p>Vegetated screening is proposed to be installed on the outside of the feedlot site on the northern, eastern and south western side of the feedlot. This screening once mature will assist in filtering dust.</p> <p>Due to the relatively low volumes of traffic anticipated for the proposed developmen, it is considered dust impacts from Pendene Road will be minimal.</p>
<p style="text-align: center;"><b>Contamination of Waterways</b></p> <p>Submissions raised concerning contamination of waterways.</p>	<p>This has been addressed previously in Section 4.15C(1)(b) discussing the likely impacts of development. Surface and Ground Water / Drainage (CDAs), Effluent and Manure spreading and Biosecurity and Carcass Disposal.</p> <p>The proposed development was not required to be referred to the NSW Department of Natural Resources Access Regulator (NRAR) as it was not triggered by the Integrated Development provisions of the <i>Environmental Planning and Assessment Act 1979</i>.</p>
<p style="text-align: center;"><b>Context, Scale and Setting</b></p> <p>Submissions raised concerning the context, scale</p>	<p>This has been addressed</p>

and setting of the proposed feedlot.	previously in Section 4.15C(1)(b) discussing the likely impacts of development relating to site suitability an design, context and setting.
<p style="text-align: center;"><b>Unauthorised Activity</b></p> <p>Concerns regarding construction of the facility without approval.</p>	This has been addressed previously in this report under heading State Environmental Planning Policy (Primary Production and Rural Development) 2019 (SEPP PPRD).
<p style="text-align: center;"><b>Noise Impacts</b></p> <p>Concerns raised in the submissions regarding the potential noise impacts associated with the proposed development.</p>	This has been addressed previously in Section 4.15C(1)(b) discussing the likely impacts of development relating to noise impacts.
<p style="text-align: center;"><b>Inaccurate Information submitted by the Applicant</b></p> <p>Submissions raised concern the information supplied by the applicant provided incorrect information at the original lodgement of the development application.</p>	<p>The original Statement of Environmental Effects had some inaccurate information which was addressed by the applicant. An amended SEE correcting some inaccuracies was submitted and exhibited during the second notification period.</p> <p>It is noted that Fishers Lane was mentioned in the original SEE as being a transport route. This aspect to the proposal was removed. All Access to the site is via Duri-Dungowan Road and Pendene Road.</p> <p>Discussion of the estimate cost of works is previously discussed in this report under the heading Environmental Planning and Assessment Regulation 2000.</p>
<p style="text-align: center;"><b>Devaluation of properties</b></p> <p>Submissions raised concern the development</p>	While land values are not a

<p>would devalue neighbouring properties.</p> <p>Detrimental to rental income</p>	<p>consideration under the Environmental Planning and Assessment Act 1979 there is no direct evidence that land values in the area would be negatively impacted.</p>
<p style="text-align: center;"><b>Operational Concerns</b></p> <p>Submissions raised concern with regards to the general operation of the feedlot.</p>	<p>The operational aspects of the proposed development and mitigation measures to ensure the feedlot facility is appropriately operated is discussed in detail throughout this report.</p> <p>A recommended condition of consent requires an OEMP to be prepared and approved by Council prior to the commencement of operations.</p>
<p style="text-align: center;"><b>Health and Well Being Impacts</b></p> <p>Submissions raised concerning the possible impacts this development will have on the health and well-being of the Loomberah community.</p>	<p>As above, an OEMP will be implemented to ensure all potential risks to the natural, built and social environments are appropriately managed during operations.</p> <p>The proposed development is a permissible activity in accordance with the Tamworth Regional Local Environmental Plan.</p>
<p style="text-align: center;"><b>Flooding and stormwater</b></p> <p>Submissions raised concern the development will adversely impact flooding within the locality.</p>	<p>This has been addressed previously in Section 4.15C(1)(b) discussing the likely impacts of development.</p> <p>Recommended conditions include preparation and implementation of a stormwater management regime to augment the proposed effluent lagoons in such a way that any increased flows emanating from the development up to and including the peak 100-year ARI runoff are ameliorated to reflect pre-development peak flows.</p>
<p style="text-align: center;"><b>Water Supply / Security</b></p>	

<p>Submissions raised concerns the impact this development will have on water supply and security.</p>	<p>This has been addressed previously in Section 4.15C(1)(b) discussing the likely impacts of development relating to suitability and secure water supply.</p>
<p style="text-align: center;"><b>Weed and Vermin Control</b></p> <p>Submissions raised concerns the development may lead to an increase in weed and pest issues</p>	<p>This has been addressed previously in Section 4.15C(1)(b) discussing the likely impacts of development relating to weed and vermin control.</p> <p>The pest and weed management plan will form part of the conditions as part of the OEMP to be submitted and approved by Council prior to the operation of the feedlot. The management of pest and weeds is an important component of the operations to minimise potential damage to the infrastructure by vermin and for the establishment of landscaping.</p>
<p style="text-align: center;"><b>Biosecurity Concerns</b></p> <p>Submissions raised concerns regarding biosecurity risks associated with the proposed development.</p>	<p>This has been addressed previously in Section 4.15C(1)(b) discussing the likely impacts of development relating to biosecurity and carcass disposal.</p>
<p style="text-align: center;"><b>Lack of consultation by the developer</b></p> <p>Submissions raised concern by the lack of consultation by the developer.</p>	<p>The matter concerning consultation by the developer and Council during the assessment process has been addressed previously in Section and under the heading Tamworth Regional Local Environmental Plan 2010 (TRLEP 2010):</p>
<p style="text-align: center;"><b>Land use Conflict</b></p> <p>Submissions raised concerning potential land use conflicts as a result of the proposed development being approved. .</p>	<p>This has been addressed previously in Section 4.15C(1)(b) discussing the likely impacts of development relating to land use conflicts.</p>
<p style="text-align: center;"><b>Visual Impact</b></p> <p>Submissions raised concern the development will adversely impact the rural amenity.</p>	<p>This has been addressed previously in Section 4.15C(1)(b) discussing the likely impacts of development relating to visual impacts.</p>

<p style="text-align: center;"><b>Future Use of Feedlot</b></p> <p>Submissions raised concern on the development regarding future expansion and sale of individual lots on the property.</p>	<p>If the operators seek to expand the feedlot, a new development application would need to be lodged with Council. This is not a consideration for assessment under the current proposed development application.</p> <p>There is no nexus for the proposed development to require the consolidation of lots. The reference made in the submissions to the requirement of a rural workers dwelling are not the same as identifying individual lots to the feedlot conditions.</p> <p>In the event that one of the subject lots is sold, the owner/operator would be required to review the conditions of approval and OEMP to determine whether the sale of the lot would impact on feedlot operations.</p>
<p style="text-align: center;"><b>Soil Impacts</b></p> <p>Submission raised concern regarding the potential impact the feedlot activity will have on soils.</p>	<p>This has been addressed previously in Section 4.15C(1)(b) discussing the likely impacts of development relating to soil impacts.</p>
<p style="text-align: center;"><b>Alternative Locations</b></p> <p>Submissions concerned that an alternate location was not selected for the proposed development.</p>	<p>Site suitability, context and setting has been discussed previously in Section 4.15C(1)(b) in this report.</p> <p>The proposed development is for a feedlot to be sited on Lot 33 DP 755329. Council’s assessment is not obligated under the planning legislation to consider whether the proposed development would be more appropriately located on a separate property.</p>
<p style="text-align: center;"><b>Public exhibition not in accordance with EPandA Act</b></p> <p>Submissions raised concern the development was not placed on public exhibition in accordance</p>	<p>This is addressed earlier in this section of the report</p> <p>The development application was publicly notified in accordance</p>

<p>with EPandA Act.</p>	<p>with the EPandA Act, EPandA Regs and generally the Tamworth Regional Council Community Participation Plan 2019.</p> <p>State wide COVID 19 legislation amendments to the EPandA Act and EPandA Regs that came into effect on 17 April 2020 removed the requirement for Council to advertise developments in local newspapers contrary to the requirements Council's Community Participation (CCP). The amendment superseded the guidance in the CCP of Council to exhibit the DA in print media by seeking Council's to encourage the use of digital advertising. In this regard, the proposal was publicly exhibited on Council's website.</p> <p>Information that was considered inaccurate in the original Statement of Environmental Effects (SEE) was amended. The amended version of the SEE was re-exhibited.</p>
<p style="text-align: center;"><b>Consistency with Blueprint 100</b></p> <p>Submissions raised concern the development is inconsistent with Blueprint 100.</p>	<p>This has been addressed previously in this report under the heading <i>Tamworth Regional Council's Blueprint 100</i></p>
<p style="text-align: center;"><b>Disposal of dead stock</b></p> <p>Submissions raised concerning the management of dead stock.</p>	<p>This has been addressed previously in Section 4.15C(1)(b) discussing the likely impacts of development relating to biosecurity and carcass disposal.</p>
<p style="text-align: center;"><b>Holding Yards Location (2)</b></p> <p>Submission raised concerning regarding the use of existing holding yards on the site.</p>	<p>The existing Loma cattle yards will continue to be used to receive, draft and despatch cattle from the property, including from the feedlot. Cattle being received for induction into the feedlot will</p>

	<p>typically only spend up to one to two hours in the yards while they are drafted, inoculated and/or drenched before being walked up to the feedlot.</p> <p>Cattle being despatched would be walked down to the yards and will also spend only a short time in the yards being weighed and loaded onto a truck. The existing shed complex shown within the red circle is not intended to be used in relation to feedlot operations</p>
<p><b>Does not meet objective of the RU1 Primary Production zone</b></p> <p>Submission raised concern regarding the proposed development not being consistent with the objective of the RU1 Land Use zone.</p>	<p>This has been addressed previously in this report under the heading <i>Tamworth Regional Local Environmental Plan 2010</i>.</p>
<p><b>Fire risk</b></p> <p>Submission raised concern the development will lead to an increase in fire risk.</p>	<p>This has been addressed previously in Section 4.15C(1)(b) discussing the likely impacts of development relating to fire and bushfire.</p>
<p><b>Disregard for Intergenerational equity</b></p> <p>Concern raised regarding the future impact on present generation health, diversity and productivity of the environment.</p>	<p>Noted</p> <p>The assessment concludes that subject to compliance with the recommended conditions of consent, the proposal will unlikely cause impacts that affect health, diversity and productivity of the environment.</p>

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

Matters of interest relating to this proposal have been addressed in the report. Mitigation measures are recommended to address concerns raised in the submissions in the conditions of consent.

Public interest generally relates to the interests of the wider community. In this instance, determining whether the development can be considered to be in the public interest is directly related to the strength of the consent conditions to mitigate potential unacceptable impacts on the wider environment, economy and community.

In this respect it can be considered that the development will make a positive contribution to the provision of intensive agriculture and the region's significant protein industry. However,



in respect of broader environmental impacts, Council needs to be confident that the potential broader impacts of the development can be managed and mitigated. Taking into account the breadth of information submitted by the applicant and the significant requirements of the proposed conditions, it is considered that the development can be appropriately managed and operate to ensure its compatibility with other development within the locality and consistent with the objectives of the Tamworth Regional Local Environmental Plan 2010 and New England North West Regional Plan.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Nil

**(c) Legal Implications**

It is noted that there is strong opposition from neighbouring land owners to the proposed extension. The Council in its capacity as the consent authority under the Environmental Planning and Assessment Act 1979 must determine the development application. A decision by Council to determine that approval should be granted for the proposed change of use to a feedlot may be appealed to the Land and Environmental Court by either objectors or the applicant against conditions of the consent. In the instance that Council decides to refuse to grant approval the applicant also has a right of appeal to the Court.

If the Council decision is appealed by any party to the Land and Environmental Court, the Council has a statutory role in being a party to the appeal and informing and assisting the Court.

**(d) Community Consultation**

The application was advertised and notified to adjoining and nearby landowners. The proposed development was placed on public exhibition between 23 December 2020 to 28 January 2021 and 18 June 2021 to 9 July 2021. There were 67 submissions received during both periods from 48 submitters. The issues raised in the submission have been addressed in this report.

**(e) Reason for Consideration by Council**

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

**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 proposal is considered to be satisfactory, having regard to the relevant legislation, Council Codes and Policies subject to the mitigation measures recommended as conditions of consent. As a consequence, it is recommended that the application be determined by the granting of consent, subject to the recommended conditions.

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**7.2 PROPOSED ROAD NAMES FOR APPROVED MOORE CREEK SUBDIVISION (LOT 147 DP 567234 AND RENAMING OF A SECTION OF BOURNES LANE**

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**DIRECTORATE:** PLANNING AND COMPLIANCE  
**AUTHOR:** Kathleen See-Kee, Development and Approvals Support Officer

**2 ANNEXURES ATTACHED**

### **RECOMMENDATION**

*That in relation to the report “Proposed Road Names for Approved Moore Creek Subdivision (Lot 147 DP 567234 and Renaming of a Section of Bournes Lane”, Council:*

- (i) approve in principle the road names:
  - a) ‘Idyllic’ Street and ‘Homestead’ Circuit (North Tamworth); and*
  - b) ‘Peppercorn’ Lane (being the section of Bournes Lane, Moore Creek to be renamed).**
- (ii) advertise the proposed road names as required by the Roads Act 1993 Section 162, Roads Regulation 2018 Part 2 Division 1 Section 7 to enable interested parties the opportunity to make comment; and*
- (iii) provided no submissions are made which object to the proposed road names, proceed to publish the adopted names in the Government Gazette.*

### **SUMMARY**

The purpose of this report is to nominate new road names for the following:

Approved Moore Creek Road Subdivision – Lot 147 DP 567234, Moore Creek Road, North Tamworth. Council has approval from the Geographical Names Board to name these newly created roads ‘Idyllic’ Street and ‘Homestead’ Circuit.

Renaming of a Section of Bournes Lane – A section of Bournes Lane, Moore Creek does not provide continued access from Meldorn Lane through to the Forest Road intersection.

The NSW Address Policy and User Manual 6.7.7 Road extents states:

*‘When a road extent is broken into separate sections by redevelopment or redesign, the name shall only be retained on one section and the other section(s) renamed as part of the development process.’*

As there is no continuation of Bournes Lane from Moore Creek Road, it is recommended that the road name at the eastern end of Bournes Lane be changed to enable clear property identification, especially for emergency services and any future connection of utility services. Access to those properties that are affected is via Forest Road. Council has received approval from the Geographical Names Board (GNB) to rename this section ‘Peppercorn’ Lane.

### **COMMENTARY**

#### **Moore Creek Road Subdivision**

Proposed Names: ‘Idyllic’ Street and ‘Homestead’ Circuit

Development (DA2016/0509) Consent granted: 3 August 2017

Theme or origin of proposed names: Theme of Country and Homely

Geographical Names Board Approval (RN2021-0012) Date: 24 September 2021

The map **ATTACHED**, refer **ANNEXURE 1**, shows the subdivision layout and proposed road name locations.

**Renaming of a Section of Bournes Lane, Moore Creek**

Proposed Name: ‘Peppercorn’ Lane

Development Application – N/A

Theme or origin of proposed name: Continuation of adjoining Theme: Forests and Flora

Geographical Names Board Approval (RN2022-0003) Date: 11 October 2021

The map **ATTACHED**, refer **ANNEXURE 2**, shows the closed section of Bournes Lane.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Nil

**(c) Legal Implications**

Nil

**(d) Community Consultation**

The proposed road names will be exhibited for public comment in accordance with the *Roads Act 1993* Section 162, *Roads Regulation 2018* Part 2 Division 1 Section 7.

**(e) Delivery Program Objective/Strategy**

A Region for the Future – F11 Sound asset management planning

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**7.3 DRAFT AMENDMENT NO. 15 TO TAMWORTH REGIONAL DEVELOPMENT CONTROL PLAN 2010 - SITE SPECIFIC DEVELOPMENT CONTROLS FOR TAMWORTH GLOBAL GATEWAY PARK AND REVIEW OF TAMWORTH REGIONAL DEVELOPMENT CONTROL PLAN 2010**

**DIRECTORATE:** PLANNING AND COMPLIANCE  
**AUTHOR:** Mitchell Gillogly, Team Leader – Development Assessment  
Sam Lobsey, Manager - Development

**Reference:** Item 7.2 to Ordinary Council 8 May 2018 - Minute No 147/18  
Item 7.1 to Ordinary Council 30 October 2018 - Minute No 237/18  
Item 7.1 to Ordinary Council 27 July 2021 - Minute No 205/21

**4 ANNEXURES ATTACHED**  
**1 CONFIDENTIAL ANNEXURES ATTACHED**

**RECOMMENDATION**

*That in relation to the report “Draft Amendment No. 15 to Tamworth Regional Development Control Plan 2010 - Site Specific Development Controls for Tamworth*

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***Global Gateway Park and Review of Tamworth Regional Development Control Plan 2010”, Council adopt the draft amendments as outlined in the TRDCP 2010 (Amendment No. 15) in Annexure 4 of this report.***

**SUMMARY**

The *Tamworth Regional Development Control Plan 2010 (TRDCP)* was adopted by Council on 12 October 2010, and became effective from the gazettal of the *Tamworth Regional Local Environmental Plan 2010 (TRLEP)* on 21 January 2011.

The TRDCP is reviewed regularly, both on an as-needs basis, and as a scheduled annual review, to ensure that the content remains consistent with the objectives defined by Council in response to consultation with the community and development industry.

This report seeks a resolution of Council to adopt draft site-specific development controls for the Tamworth Global Gateway Park Precinct and enact changes to the TRDCP which relate to the fast-track development application process and desired future character statements for site specific precincts.

**COMMENTARY**

The Tamworth Global Gateway Park (TGGP) is specifically referenced in Blueprint 100 as an area of opportunity to support new initiatives to expand industrial sectors. The site-specific development controls provide a clear and concise desired vision for the precinct which is underpinned by a structure plan.

The proposed amendment to the TRDCP introduces desired future character statements which will be prepared for each new or updated site-specific areas in Step 4 of TRDCP. Also being updated is the fast-track development stream for industrial and commercial developments, designed to reduce expected processing times for applications where all required information has been provided.

A copy of the Draft TGGP Site Specific Controls which was placed on public exhibition is **ATTACHED**, refer, **ANNEXURE 1**.

A copy of the Draft *TRDCP 2010 (Amendment No. 15)* which was placed on public exhibition is **ATTACHED**, refer, **ANNEXURE 2**.

**Public Exhibition of Draft TGGP site specific controls and Draft TRDCP (Amendment No. 15)**

The Draft TGGP controls and Draft TRDCP (Amendment No. 15) was placed on public exhibition for a period of 28 days from 3 September 2021 until 30 September 2021.

Extensive media coverage was undertaken throughout the exhibition period via Council’s website, television/radio interviews and print and social media stories. The results of the communication plan indicate nearly 400 visitors to the public exhibition page on Council’s website.

The final Communication Report is **ATTACHED**, refer to **ANNEXURE 3**.

Council received five (5) submissions during the public exhibition period. This included two (2) submissions from the general public and three (3) submissions from external agencies. Council’s response to items raised in each submission is discussed below;

<b>General Public Submissions</b>
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Submission	Council's Response
<p><b>School Parking on Marathon Street</b></p>	<p>The submission raised the potential for part of the 20m wide buffer along Marathon Street to be allocated as a parking area for the school based on the development of the TGGP leading to an increase in traffic. Council has received Government funding to implement safety improvements around the Westdale Primary School on Gunnedah Road and Marathon Street. These improvements include the installation of median islands, signage and line marking to improve safety for students. No additional parking spaces are included or proposed as part of the upgrade works.</p>
<p><b>Landscaping Buffer on Marathon Street</b></p>	<p>The submission stated that the 20m wide landscape buffer along Marathon Street should be widened to 100m (minimum). The landscape buffer proposed was the subject of significant investigation by relevant Council officers and it is considered a 20m wide buffer of native vegetation planting is suitable and will provide adequate screening to the residential area on the eastern side of Marathon Street.</p>
<p><b>External Agencies Submissions</b></p>	
Submission	Council's Response
<p><b>Traffic Generating Development</b></p>	<p>The submission from Transport for NSW (TfNSW) sought clarification regarding how development requiring referral to TfNSW under Schedule 3 of SEPP Infrastructure 2007 as traffic generating development could be considered fast track development. The fast track assessments requirements have therefore been updated to exclude development which is defined as traffic generating developments.</p>
<p><b>Road Connection to Oxley Highway</b></p>	<p>The submission from TfNSW sought clarification on the additional road connection to the Oxley Highway, located at the mid-point between the Goddard Lane and Country Road roundabout. This is identified as a potential future access point onto the Oxley Highway. Any future development application which proposes the additional access will be required to consult with TfNSW. The primary access points for the TGGP are the roundabout on the Oxley Highway and Goddard Lane.</p>
<p><b>Outdoor Signage</b></p>	<p>The submission from TfNSW recommends Council consider the requirement for site specific controls to inform the design and placement of advertising signs along the Oxley Highway frontage. Any development</p>

	<p>application should include an assessment of the road safety criteria under Part 3 of the Transport Corridor Advertising and Signage Guideline (TCASG). The draft DCP has been updated to include all developments located along the Oxley Highway frontage to include an assessment against Part 3 of TCASG.</p>
<p><b>Entrance Signs</b></p>	<p>The Tamworth Local Aboriginal Land Council (TLALC) has commented that the entrance statement signs should recognise the traditional custodians of the land. Council (as the developer) has been consulting with the local Aboriginal community to incorporate First Nation Artwork into the entrance statements. It is not considered specific controls in the draft DCP are required in this regard.</p>
<p><b>Recording of Artefacts</b></p>	<p>The TLALC have commented the existing artefacts and items of Aboriginal Cultural significance should include some form of permanent acknowledgement at the site of each item. The Tamworth Global Gateway Park – Aboriginal Cultural Heritage Assessment, states that salvaged artefacts will be relocated to a designated resting place off the cycle path near Murroon Creek crossing and include a permanent interruption. This would be subject to further consultation in accordance with Council’s adopted Reconciliation Action Plan (RAP). The relocation or disturbance of any Aboriginal artefact is subject to an Aboriginal Heritage Impact Permit (AHIP) approval.</p>
<p><b>Fencing</b></p>	<p>The TLALC has suggested the fencing controls should be more specific in their requirements, in particular the type and colour of fencing. The draft DCP includes specific controls relating to the type, style, colour and location of fencing in different areas of the TGGP. It is considered these controls are satisfactory and ensure the streetscape and adjoining residential areas will not be compromised by unsightly fencing.</p>
<p><b>Landscaping</b></p>	<p>The TLALC considers the landscaping controls should be more specific in their requirements, in particular the quality of landscaping. The draft DCP requires a 5m wide landscaped setback along the Ring Road and Goddard Lane and a 3-5m wide landscaped setback for all other roads. The draft DCP already requires a landscaping plan that details the species selected, maturity at planting, location and ultimate height. Landscaping shall comprise only low maintenance, drought and frost tolerant species.</p>
<p><b>Street Names/Themes</b></p>	<p>The TLALC has requested Council consider a theme for the street names using Gomerioi language. Council (as the developer) has been undertaking consultation with</p>

	members of the local Aboriginal community to incorporate Gomeri language in the future street names. This process is still ongoing and will include further consultation with the local Aboriginal names group once a list of street names has been finalised.
<b>Biodiversity</b>	The Biodiversity, Conservation and Science Division (BCSD) of the Department of Planning, Infrastructure and Environment supports the commitment to the protection of remnant native vegetation with the use of buffers between environmentally sensitive areas and future land uses. No amendments to the draft DCP are required. The other matters raised relate to the wider Tamworth region and will be considered as part of the future review of the whole DCP document.
<b>Flooding</b>	The BCSD submission identifies that sections of the flood prone area maps in the DCP are out of date based on recent Council adopted studies. Council is in the process of updating flood information across the wider Local Government Area and this will form part of a future DCP amendment.

A full copy of the submissions are **ENCLOSED**, refer to **CONFIDENTIAL ENCLOSURE 1**, for the information of Councillors.

**Recommended changes to the exhibited TRDCP 2010 (Amendment No. 15)**

*Site-Specific Development Controls - Tamworth Global Gateway Park Precinct*

A summary of all of the changes to be adopted following the public exhibition period for the Site-Specific Development Controls - Tamworth Global Gateway Park Precinct are provided below;

<b>DCP Control</b>	<b>Amendment</b>	<b>Page</b>
Marathon Street Buffer	Update wording to be consistent with the “fencing” controls which require pre-coloured metal cladding fencing	65
Oxley Highway Buffer (New Control)	Add a new control “Oxley Highway Buffer” to clearly outline Council’s expectation for vegetation screening along the Oxley Highway frontage. These controls have been relocated from the “Site Landscaping” controls. The landscape buffer has been extended to include between Murroon Creek and Marathon Street.	66
Site Landscaping	Updated in consideration of the new “Oxley Highway Buffer” controls.	66

Traffic and Access	Update Figure 9 to show the potential additional road access to Oxley Highway in accordance with the submission from Transport for NSW (TfNSW). This is a potential future access point only and is subject to further investigations. The primary access points for the TGGP are the roundabout on the Oxley Highway and Goddard Lane.	69
Traffic and Access	Clarify that development is considered traffic generating development which requires referral to TfNSW is not deemed fast track development. This is in accordance with the submission from TfNSW.	69
Signage (New Control)	Require Development Applications seeking to display signage to the Oxley Highway to include an assessment of the road safety criteria under Part 3 of the <i>Transport Corridor Outdoor Advertising and Signage Guidelines</i>	70

Finally, the site-specific chapter - Tamworth Global Gateway Park will be included in Step 4 – Type of Development contained in the DCP.

#### *Fast Track Development Application Process*

A summary of all the changes following the public exhibition period to be adopted for the Fast Track development application process is provided below;

<b>Fast Track Development Application Process</b>	<b>Amendment</b>	<b>Page</b>
Fast Track Assessment Exclusion Table	<ul style="list-style-type: none"> <li>• Traffic generating development identified in schedule 3 of State Environmental Planning Policy (Infrastructure) 2007; and</li> <li>• Referral to any State of Commonwealth external agency.</li> </ul>	5

This is in consideration of submissions received during the public exhibition period and further consideration of external agency requirements under planning legislation.

A final ‘marked up’ copy of the TRDCP 2010 (Amendment No. 15) showing the proposed changes in red and insertion of the new TGGP site specific chapter is **ATTACHED**, refer **ANNEXURE 4**.



**(a) Policy Implications**

The adoption of the Draft TGGP site-specific DCP provisions amends Council's existing policy by setting appropriate and quality standards for the industrial precinct, acknowledging its significant location at an important city entrance.

Adoption of Draft TRDCP (Amendment No. 15) amends Council's existing policy by introducing desired future character statements for site-specific precincts and expanding the fast-track development stream for industrial and commercial developments, thereby providing a more efficient process for certain applications.

**(b) Financial Implications**

Nil

**(c) Legal Implications**

This amendment will alter the provisions of the TRDCP 2010, by adding a series of development controls that must be considered in the assessment of any development application in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*.

**(d) Community Consultation**

Community Consultation was undertaken by Council via public exhibition of the draft Amendment for a period of 28 days from 3 September 2021 until 30 September 2021. A series of changes are proposed to the exhibited version of the draft Amendment based on the issues raised in the submissions.

**(e) Delivery Program Objective/Strategy**

A Prosperous Region – P1.1 Support and facilitate economic development and employment opportunities.

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**7.4 PLANNING PROPOSAL TO INCORPORATE DESIGN EXCELLENCE PROVISIONS FOR DEVELOPMENT WITHIN THE TAMWORTH CBD**

**DIRECTORATE:** PLANNING AND COMPLIANCE  
**AUTHOR:** Gina Vereker, Director Planning and Compliance  
Genevieve Harrison, Manager Integrated Planning

**RECOMMENDATION**

*That in relation to the report “Planning Proposal to Incorporate Design Excellence Provisions for Development Within the Tamworth CBD”, Council:*

- (i) forward the Planning Proposal to the Department of Planning, Industry and Environment (DPIE) requesting a Gateway Determination in accordance with Sections 3.33 and 3.34 of the Environmental Planning and Assessment Act 1979; and*
- (ii) upon receipt of a Gateway Determination, publicly exhibit the planning proposal (if required) in accordance with the terms of the Gateway Determination.*

**SUMMARY**

The purpose of this report is to initiate an amendment to the Tamworth Regional Local

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Environmental Plan 2010 (TRLEP 2010) to introduce design criteria for the assessment of future development applications within the Tamworth CBD. As Council is aware, many key sites in the CBD present opportunities for significant development, redevelopment and/or re-use. In order to achieve the vision for Tamworth CBD outlined in Blueprint 100, it is considered vital that the TRLEP contains provisions that facilitate the high-quality urban design outcomes necessary to deliver a “*strong and vibrant Tamworth City Centre*”. Through an addition to Council’s LEP, this planning proposal will require an enhanced quality of design, appearance and activation for major CBD development without any alteration to the land use table in terms of permissible uses.

## **COMMENTARY**

### **Background**

As Council would be aware Blueprint 100 includes the following actions relevant to the Tamworth CBD:

“2.3.1 *Develop a Tamworth Town Centre precinct plan. Consider:*

- *Facilitating shop-top housing on Peel Street, including introducing financial incentives to make it more viable.*
- *Supporting the upgrade and extension of Peel Street streetscape treatment south-eastwards towards the possible future university precinct.*
- *Facilitating the relocation of car yards on Kable Avenue to a more appropriate location in the city and the development of apartments along Kable Avenue opposite Bicentennial Park.*
- *Supporting the implementation of the Bicentennial Park Master Plan”.*

As Council is also aware, the Tamworth CBD is zoned “B3 Commercial Core” with the objectives of the zone being:

- *to provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community;*
- *to encourage appropriate employment opportunities in accessible locations; and*
- *to maximise public transport patronage and encourage walking and cycling.*

Unfortunately, it is apparent that the zone objectives (which commenced as part of the LEP in 2010) are not particularly helpful in achieving Council’s (and the community’s) Blueprint vision. However, at present, any Development Application lodged within the zone must be assessed against these objectives and on this basis, there are limited grounds available to either refuse a development, or require a proponent to enhance the design, the appearance or the activation potential of the proposal. Therefore, Council’s current LEP provisions will not act as an enabler to facilitate the type of development Blueprint envisages.

Council would be aware that the review of the 2010 LEP has commenced and work on the CBD precinct is underway, however, while this process will consider clauses that will more appropriately address Blueprint 100, the process to update the LEP provisions will take some significant period, so until then, Council risks being in a position to have to approve development that not deliver on Council’s Blueprint objectives.

### **Proposal**

The objective of this planning proposal is to ensure that future development within the Tamworth CBD exhibits ‘design excellence’ and contributes to the natural, visual and built

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character of this significant precinct. This LEP amendment would introduce a ‘*design excellence*’ clause that would apply to the erection of new buildings or external alterations/additions to existing buildings. The clause would apply to all CBD properties identified as a ‘*Significant Urban Area*’ on the LEP map, with the exception of minor development. In considering whether future development exhibits design excellence, the following matters would be taken into consideration:

- (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved;
- (b) whether the form and external appearance of the development will improve the quality and amenity of the public domain;
- (c) whether the development detrimentally impacts on view corridors;
- (d) whether the development incorporates active frontages to key streets and to pedestrian thoroughfares; and
- (e) how the development addresses the following matters:
  - (i) the suitability of the land for development;
  - (ii) existing and proposed uses and use mix;
  - (iii) heritage issues and streetscape constraints;
  - (iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form;
  - (v) bulk, massing and modulation of buildings;
  - (vi) street frontage heights;
  - (vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity;
  - (viii) pedestrian, cycle, vehicular and service access, circulation and requirements; and
  - (ix) the impact on, and any proposed improvements to, the public domain.

The above matters are proposed to be incorporated in a specific clause in TRLEP 2010 relating to the Tamworth CBD. It is acknowledged that similar urban design criteria should in some form potentially be applied to other precincts and types of development within the Region, however, noting the significance of the CBD it is considered other localities can be considered in conjunction with the Urban Design Guidelines that are currently being prepared as part of the comprehensive review of the TRLEP 2010.

It is relevant to note that the addition of this clause will not change the land use table in the TLEP, i.e., it will not affect the permissibility of any land use type that is currently permissible under current LEP provisions. However, it will require that any major development must be addressed against the provisions of the design excellence clause. It is also important to note that the operation of the clause will not relate to minor development.

**(a) Policy Implications**

Blueprint 100 has emphasised the need to ‘activate’ the CBD and improve urban design, amenity and overall liveability to encourage inner city living and the night time economy. A further objective of Blueprint 100 is to provide a mix of opportunities in the CBD for residential, tourist and commercial enterprises. This planning proposal will act as a specific enabler to achieving these outcomes.

**(b) Financial Implications**

Nil

**(c) Legal Implications**

The planning proposal will result in an amendment to Council’s statutory planning instrument, TRLEP 2010. The draft planning proposal will become a matter for consideration in the development assessment process once the draft proposal commences public exhibition. It must be emphasised that the planning proposal does not change the permissibility of any land uses within the CBD – it will simply provide a tool to achieve the ‘urban design’ outcomes outlined in Blueprint 100.

**(d) Community Consultation**

Community consultation will be undertaken during public exhibition of the planning proposal if required by the Gateway determination. Targeted engagement will also be undertaken with key stakeholders such as the City Centre working Group and the Tamworth Business Chamber.

**(e) Delivery Program Objective/Strategy**

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

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**7.5 STREET TREES - URBAN SUBDIVISIONS**

**DIRECTORATE: PLANNING AND COMPLIANCE**  
**AUTHOR: Steve Brake, Manager Development Engineering**

**RECOMMENDATION**

*That in relation to the report “Street Trees - Urban Subdivisions”, Council:*

- (i) place the amended Development Control Plan clause, the amended Engineering Design Minimum Standards for Subdivisions and Developments, and the new entry in the Fees and Charges schedule included in the body of the report on public exhibition for 28 days;*
- (ii) refer the same amendments and additions to the land development industry for comment and feedback; and*
- (iii) require a future report outlining any feedback and submissions made during this period.*

**SUMMARY**

Street trees are an important part of the urban streetscapes in Tamworth and the surrounding towns and villages. Trees provide shelter, habitat, visual amenity, and contribute to a reduction in the “heat island” effect often experienced in built up areas.

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Council recently adopted a Street Tree Management Plan, encompassing a broad scope of strategies around the ongoing management of the street tree stock. That plan promoted the philosophy that the right tree of the right size planted at the right time of year in the right location leads to the right result.

The establishment of street trees in new subdivisions is discussed in the Street Tree Management Plan. The specifics however are controlled primarily through the development application process and the associated Development Control Plan (DCP) provisions. These provisions are echoed in greater detail in the relevant sections of Council's Engineering Minimum Standards for Subdivisions and Developments (the Minimum Standards).

Achieving the vision for the region outlined in Blueprint 100 will necessitate the establishment of housing and employment opportunities for some 37,000 additional residents. It is foreseeable that up to 20,000 additional street trees will need to be established alongside the required housing lots and other developments over the next two decades. It is timely that the DCP and Minimum Standards be reviewed, both to support the intent of the recently adopted Street Tree Management Plan, and to optimise the outcomes in relation to this element of the delivery of TRC's Blueprint 100 objectives.

## **COMMENTARY**

A workshop was convened in July 2021, to present and discuss areas for improvement in the current suite of controls governing the establishment of street trees in new subdivisions. This report and the associated recommendations follow on directly from that workshop presentation, and is supplementary to the recently adopted Street Tree Management Plan.

Shortcomings in the current "business as usual" approach can be summarised as follows:

- there is industry confusion around exactly what the requirements are for establishment and handover of street trees;
- there are ambiguities in Council's current documentation;
- there has been a divergence between practice "in the field" and a strict literal interpretation of the controls;
- Council's preference for planting of tube stock as opposed to semi-advanced trees is at odds with our current controls;
- Council's preference for controlling the timing and quality of planting by performing this task in-house with contributions from subdividers needs to be strengthened;
- there is no set dollar value applicable to the supply and establishment of street trees; and
- Council's maintenance bond arrangements currently treat soft landscaping in the same way as civil works. This is inappropriate and needs to be refined.

There are three elements of Council's current controls that will need to be amended in order to roll out a coordinated and comprehensive update of our subdivision street tree establishment practices, namely the Development Control Plan, the Minimum Standards and the Fees and Charges schedule.

## **TAMWORTH REGIONAL DEVELOPMENT CONTROL PLAN 2010 (DCP):**

The DCP includes the following requirement under the heading "Subdivision Controls":

Subdivision involving new road construction shall include street tree planting of suitable species.

In order to clarify the scope of the term “subdivision”, the following replacement text is recommended:

*Urban residential, commercial and industrial subdivision* involving new road construction shall include street tree planting of suitable species.

#### **Minimum Standards:**

Clause 6.8 of the Minimum Standards deals with the type of tree to be planted (the “what”). This clause references 6.16-Appendix B of the Minimum Standards, which in turn provides a list of recommended street trees. That list is now out of date, having been replaced with a more comprehensive list that is contained in the Street Tree Management Plan as Appendix A. Rather than repeat this updated list in the Minimum Standards, it is recommended that the clause be updated to reference Appendix A of the Street Tree Management Plan, and that 6.16 be deleted from the Minimum Standards. In this way, the risk of having two lists that slowly drift out of sync will be eliminated. Clause 6.8 would be updated to read:

#### **6.9 PLANTING DETAILS:**

At the pre-construction stage detailed planting information must be provided. A list of recommended species is listed in ~~Part 6~~ Appendix A *of Council’s Street Tree Management Plan*. The plan shall show the location and species name of the proposed plants....

Clause 6.9 of the Minimum Standards deals with street trees. The following changes are recommended, with the objective of reinforcing the establishment of trees of the right size planted at the right time of year in the right location:

#### **6.9 TREES & SHRUBS:**

The developer will be required to lodge with Council sufficient funds to permit the planting of one, ~~or two on corner lots, approved semi-advanced~~ street tree per standard residential lot, *or two street trees in the case of corner lot, or two street trees in the case of corner lot. Street trees will be tube stock, or bare root stock in the case of deciduous trees. The value of the funds shall be calculated based on the cost per street tree as nominated in Council’s Annual Fees and Charges document.* These funds will be utilised by Council to purchase and plant street trees when the subdivision is 75% occupied or at the end of two years, whichever occurs first.

Alternatively, the developer may, with the approval of the Director Regional Services, plant one ~~or two on corner lots,~~ approved street tree/s per standard residential lot, *or two street trees in the case of corner lots. such* Such trees are to be located in the footway within the road reserve central to the lot *frontage* and in accordance with the approved services locality plan. *The works will be subject to a two-year maintenance period with a maintenance bond payable in accordance with Section 1.7.3. Planting shall only take place in favourable conditions, nominally spring or autumn. The option to plant street trees in lieu of payment to Council will not be available if:*

- *level 3, 4 or 5 water restrictions prevail, or;*
- *the number of street trees in the stage is less than or equal to 10.*

~~Trees proposed for street planting shall be semi-advanced tree species from an accredited supplier, unless otherwise approved by the Director Regional Services.~~

The theme of trees and shrubs to be planted shall be identified in the landscape plan and approved by Council based on criteria including suitability to site conditions, compatibility with existing vegetation and planting themes for the locality.

Clear zone requirements must be achieved for street trees in accordance with Section 2.9.5.1.

There are several administrative clauses in the current version of the Minimum Standards that will need to be revised in order to support and reinforce the above changes.

The first of these deals with performance bonds. These are the bonds that Council accepts where works are not completed at the time that the subdivider elects to obtain their Subdivision certification. Given that Council will be setting the policy to actively encourage subdividers to pay Council's horticultural team to establish the street trees, performance bonding will rarely be activated for this element of the works. Notwithstanding, it would still be prudent to bring Clause 1.7.2 of the Minimum Standards into line, by removing the reference to drought provisions, as follows:

### **1.7.3 PERFORMANCE BOND:**

A Performance Bond may be lodged by the developer for specified outstanding works, subject to agreement to the extent of those works by Council. The Performance Bond must be lodged prior to the release of the Subdivision Certificate and it shall be the greater of \$2500 or 140% of the value of the outstanding works.

~~In any centre across Tamworth Regional Council area where level 3, 4 or 5 water restrictions are imposed, Council will agree to a performance bond for the landscaping of a development in the affected area for the value of 100% of the estimated cost of completing the works. The bond shall be returned in the event the landscaping work is carried out when Level 3, 4 or 5 water restrictions are no longer applicable, or in the event the Developer, or the Developers Representative fails to carry out the landscaping, Council may use the bond to carry out necessary works.~~

The developer is to provide a detailed costing for the outstanding works accompanied with a timeframe for the completion of the outstanding works not exceeding 12 months from the date of release of the Subdivision Certificate. If works are incomplete in the time nominated, Council may complete works at the developer's cost using the bond. Any unexpended balance will be refunded to the developer at the time the works have been completed.

Performance bonds shall not have an expiry date.

Performance bonds will only be accepted for works within a road reserve or drainage reserve and will not be accepted for essential infrastructure such as water and sewer servicing.

A maintenance bond shall be paid when performance bonded works are completed. Maintenance bonds shall be either:

- a. For living landscaping including trees and turf that has been constructed as bonded works, the Maintenance Bond shall be 100% of the cost of these works
- b. For all other items for which a performance bond has been applied, a separate maintenance bond shall be lodged as per section 1.7.3

The second of these deals with maintenance bonds. Currently, there is only one maintenance bond procedure to cover all elements of subdivision handover, covering both "hard" civil infrastructure, and "soft" landscaping elements. The nominated 12-month bond value calculated at 5% of the value of the works is entirely appropriate for civil works

elements, given Council's close involvement with the oversight and ongoing quality assurance of the works. This same 5% rate is however quite inappropriate in the case of soft landscaping, which can suffer a much higher attrition rate, and requires a longer period of time to successfully establish. It is recommended that the following adjustments be made to the relevant clause:

### **1.7.3 MAINTENANCE BOND:**

Prior to the issue of a Subdivision Certificate Council will require the lodgement of a Maintenance Bond which is held to cover the cost of any maintenance or defects identified during the maintenance period in relation to the subdivision or development works that are intended to be under Council ownership. The maintenance period commences from the date of issue of the Subdivision Certificate or Occupation Certificate, unless a performance bond for outstanding work is entered into (for example for essential infrastructure such as roads, drainage), in which case the maintenance period shall commence from the date of completion of the outstanding works. In the case where the performance bond is for non-essential infrastructure (for example street trees and footpaths) the maintenance bond shall commence from the date of release of the Subdivision Certificate and the performance bonded works shall have a separate maintenance bond which shall commence from the date of completion of the works.

The maintenance period *for civil works shall be* 12 months, however where infrastructure intended to be public assets is dedicated to Council but staged release of Lots is proposed as part of the Subdivision Certificate process, then the maintenance period will be extended for the period of time that it takes the developer to release at least half of the Lots constructed for each Construction Certificate. The amount of the Bond is calculated as 5% of the total contract price for completion of the work, with a minimum amount of three hundred dollars (\$300). Council will not accept Bank Guarantees (for the maintenance bond) that have termination or expiry dates. All lodged bonds shall be unconditional.

Subject to satisfactory performance of the works the maintenance bond shall be released in stages as follows:

- Fifty percent (50%) of the bond held (or 50% of the remaining bond should a portion of the bond money have been utilised to repair defects - see Section 1.7.2) shall be released after a period of six months. or, in the case of staged Lot release as part of the Subdivision Certificate process, when at least half of the Lots created for each Construction Certificate have been released;
- The balance of the bond remaining shall be released after a further 6 months.
- Where Maintenance Bonds are provided by Bank Guarantee, two separate 2.5% guarantees are to be provided

*The maintenance period for street trees and other soft landscaping works shall be two years from the date of Council acceptance of the plantings. The value of the bond shall be 30% of the value of the works, with street trees acquitted at the rate per tree nominated in Council's Annual Fees and Charges document, with the minimum bond amount being \$3,000.*

### **Fees and Charges Schedule:**

In order to give effect to the relevant passage in the updated Minimum Standards Clause 6.9 above, it will be necessary to include a new fee in the Fees and Charges Schedule as follows:

#### **New Fee**



Fee Description	Pricing Category	CSO	GST	Total Inclusive of GST
New Street Tree	F	N	N	\$300 per tree

**(a) Policy Implications**

This report recommends updates to Council’s Development Control Plan 2010 Engineering Design Minimum Standards for Subdivisions and Developments, and the Fees and Charges Schedule.

**(b) Financial Implications**

Nil

**(c) Legal Implications**

Nil

**(d) Community Consultation**

The *Environmental Planning and Assessment Act 1979* and *Local Government Act 1993* respectively, requires that Council place the changes to the Development Control Plan, Engineering Design Minimum Standards for Subdivisions and Developments, and the Fees and Charges on public exhibition for a period of at least 28 days. Direct consultation with the development industry is also recommended.

**(e) Delivery Program Objective/Strategy**

A Spirit of Community – C21 Preserve and celebrate the character, heritage and culture of our city, towns and villages.

**7.6 TAMWORTH CITY CENTRE WORKING GROUP MEETING MINUTES - 14 OCTOBER 2021**

**DIRECTORATE: PLANNING AND COMPLIANCE**  
**AUTHOR: Gina Vereker, Director Planning and Compliance**

**2 ANNEXURES ATTACHED**

**RECOMMENDATION**

*That in relation to the report “Tamworth City Centre Working Group Meeting Minutes - 14 October 2021”, Council:*

- (i) adopt the revised Terms of Reference including the change of membership;*
- (ii) commence the process of inviting Expressions of Interest to fill vacancies within the Working Group; and*
- (iii) note that the new membership will be confirmed by the Council in early 2022;*
- (iv) endorse the recommendation that the John Williamson statue be located on the south western corner of Fitzroy and Peel Streets, in the proximity of Paul Harvey Optometry;*
- (v) as part of the Tamworth CBD Precinct Masterplan and LEP Review, extend the Peel Street beautification program, based on the following staging:*
  - Stage 1 – from Murray Street to White Street (subject to a decision being made for a university campus to proceed in this locality);*

- **Stage 2- Kable Avenue; and**
  - **Stage 3 – from Bourke Street to Darling Street and Fitzroy Street North;**
- (vi) **acknowledge that implementation of the full program will take a considerable number of years to achieve, taking into account the extent and cost. In recognition of this the full program be designed (in accordance with the future Masterplan) to enable Council to apply for grant funding as opportunities arise; and**
- (vii) **receive and note the Minutes of the meeting held Thursday, 14 October 2021.**

## **SUMMARY**

The purpose of this report is to present to Council the Minutes of the Tamworth City Centre Working Group meeting held on 14 October 2021, and to provide an overview of the meeting outcomes.

## **COMMENTARY**

The Minutes of the Tamworth City Centre Working Group Meeting held 14 October 2021 are **ATTACHED**, refer **ANNEXURE 1**. The main items discussed at the meeting are detailed below:

- an overview/update was provided by guest Graeme McKenzie, Council's Manager Strategy, Assets and Design in regards to traffic management in the Tamworth CBD;
- discussion regarding the revised Terms of Reference and revision of the members list with a recommendation to proceed to Expressions of Interest for vacancies and new positions to be adopted by the new Council in early 2022. The revised Terms of Reference are **ATTACHED**, refer **ANNEXURE 2**;
- expansion of the Peel Street Beautification project; and
- proposed location of John Williamson Statue.

### **(a) Policy Implications**

Nil

### **(b) Financial Implications**

Nil

### **(c) Legal Implications**

Nil

### **(d) Community Consultation**

Nil

### **(e) Delivery Program Objective/Strategy**

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

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## **7.7 TRANSPORT FOR NSW PROPOSAL FOR THE RENOVATION AND RE-PURPOSING OF TAMWORTH STATION MASTERS RESIDENCE - ARTIST IN RESIDENCE**

**DIRECTORATE:** PLANNING AND COMPLIANCE  
**AUTHOR:** Gina Vereker, Director Planning and Compliance

**4 ANNEXURES ATTACHED**

### **RECOMMENDATION**

*That in relation to the report “Transport for NSW Proposal for the Renovation and Re-Purposing of Tamworth Station Masters Residence - Artist in Residence”, Council support Transport for NSW and other key stakeholders in the repurposing of the Tamworth Railway Station Master’s House as an Artist-in- Residency facility.*

### **SUMMARY**

At its meeting held on 12 October 2021, Council considered the minutes of the Tamworth Regional Heritage Working Group and in part, adopted the following resolution:

- (v) *pursue a partnership with Transport for NSW with the aim of restoring the Tamworth Railway Station Masters House to a standard where it is fit for community use, and with use as an Artist in Residence concept at the site as one of the options to be considered.*

Acknowledging Council’s resolution and the discussion that took place during the meeting, this report has been prepared to outline the background to the Transport for NSW proposal and Council’s role in the process to date.

The report also recommends that Council support both Transport for NSW and the other stakeholders involved, being the UNE, Arts North West and the Tamworth Local Aboriginal Land Council in a partnership that will achieve both the renovation of the Station Master’s Residence, as well as its re-purposing for a positive cultural initiative, being an Artist-in-Residency program.

### **COMMENTARY**

#### **Background**

In response to an approach from Transport for NSW (TfNSW) in relation to its funding program for the renovation and re-purposing of heritage railway station buildings across NSW, Council was requested to provide advice regarding options for the West Tamworth railway station building as well as the Tamworth Railway Station Master’s residence. Due to the heritage listing of both buildings and the fact that the state owns both properties, Council’s role has been limited to connecting TfNSW with community groups including heritage and historical groups as well as suggesting potential future occupancies for both the West Tamworth railway station building and the Tamworth Station Master’s residence.

Following engagement with a number of partners, TfNSW has advised that a preferred option for re-purposing of the Station Master’s residence is an Artist-in-Residency program.

Artist-in-Residency (AIR) programs can provide increased educational opportunities, mentorship and skill exchange in our communities. Transport for NSW (TfNSW) has been working with the Tamworth Regional Heritage Working Group, Tamworth Historical Society Inc, UNE, Arts North West, Tamworth Local Aboriginal Land Council and other key stakeholders in support for the potential of restoring the Tamworth Railway Station Master’s residence for such a community purpose, with this purpose being the preferred option for the state property owner. TfNSW has requested Council’s support for the proposal, noting that

the cost of renovating and re-purposing the building will be borne by the state. There will be no cost to Council with the exception of some staff time which is already funded from existing salary budgets.

### **Current Status**

In its initial approach to Council, as well as most recently, TfNSW has been clear in indicating to Council its preferred options for both properties. In its earliest communication with Council, through its Heritage Architect, Gary Estcourt and his Director, TfNSW has clarified the following:

- TfNSW has established a funding program to achieve the renovation and rehabilitation of its heritage railway station buildings across the state;
- preference is given to locations where the Council and relevant local stakeholders (heritage and historical groups are supportive of the proposal and can suggest a re-purposing that is consistent with the funding criteria;
- the criteria for the Tamworth Stations are that:
  - the preferred use of the Tamworth Station Masters Residence is for a community/not-for-profit/arts/cultural purpose, drawing on local partners;
  - the preferred use for the West Tamworth Railway station is for an income generating economic development/employment/training type program that can demonstrate a positive economic development outcome;
  - TfNSW will determine the final use of each facility;
  - no decision had yet been made on the future ownership and/or means of tenure for each building; and
  - due to the relative cost of renovation, the Tamworth Station Masters Residence is considered the preferred option to receive funding.

As the most recent focus for TfNSW has been the Tamworth Station Master's residence, Council's Heritage Working Group, the UNE, Tamworth Local Aboriginal Land Council and Arts North West were all identified by TfNSW as significant stakeholders and potential partners in determining appropriate uses for the building.

These stakeholders are of the opinion that an Artist-in-Residency program would be an appropriate use for the Station Masters Residence.

### **Artist-in-Residency Programs**

Artist-in-Residency (AIR) programs give artists the opportunity to live and work outside of their usual environments, away from the restrictions and pressures of their everyday lives. They provide the artist with time to reflect, discover and create work. Creativity is generated in places and spaces when you have time and energy to devote to enriching your arts practice.

AIR programs support cultural and artistic exchange, nurture experimentation and new ideas, and sustain creative practice. They also create a dialogue between an artist and a community, with the opportunity to interact and to engage locally. This community engagement can happen in many different ways and can include workshops, exhibitions, presentation of research, a performance excerpt or concerts, school visits, mentoring or artist talks.

A future AIR program based at Tamworth Railway Station Masters House would not only be located within the residence but would also activate other sites in and around Tamworth including the gallery, library, museums, theatres, conservatorium and community halls. It will, in particular, support the activation of the new cultural precinct and provide visibility to the substantial arts practice that occurs in the Tamworth region.

The purpose of an AIR program would see a musician, visual artist, writer, actor, composer and other artist/s be housed for a set term. TfNSW has indicated it is very keen to restore the building for this use and purpose. See the **ATTACHED** refer **ANNEXURE 1**.

At the recent meeting of the Tamworth Regional Heritage Working Group held on 23 September 2021, the following motion was carried.

*“Tamworth Regional Council together with the Heritage Working Group work with Transport for NSW to achieve a fit for purpose building. Council and the Heritage Working Group pursue a partnership with Transport for NSW and proceed to endorse the action to date. The Heritage Working Group acknowledges the heritage significance of the building.”*

This report recommends that Council indicate its support for a coordinated partnership between TfNSW and key stakeholders to enable the re-use of the Tamworth Railway Station Masters Residence for the purpose of an AIR program.

#### **(a) Policy Implications**

The development of Artist-in-Residency (AIR) programs is a specific action identified in the Tamworth Region Cultural Plan.

- *Action 1.12 stats “Investigate establishing an artist in residency program”.*

This action along with many other actions in the cultural plan will be addressed by this project implementation.

The AIR program is also reflected in the aims of Blueprint 100. Specific actions that support this project include:

- *2.3 A strong and vibrant Tamworth City Centre*
- *3.1 Progress the establishment of universities in Tamworth*
- *7.1 Pursue the Region’s Arts and Culture aspirations (Tamworth Region Cultural Plan)*
- *7.2 Engage more effectively with the Aboriginal Community*
- *8.1 A new narrative for Tamworth*

#### **(b) Financial Implications**

The restoration of the building and necessary renovations will be project managed and implemented through TfNSW. There are no costs to Council.

In addition, the funding of \$5,000 received from the successful *Create NSW* multi-year grant for the Tamworth Regional Gallery can contribute towards artist fees for AIR programs. These funds from Create NSW are required to contribute directly towards the visual arts.

TfNSW has advised that is it yet to determine the long-term/future ownership or tenure of the Station Master’s residence. Should it decide to offer the building to Council to undertake future management, the proposal, including offer and relevant terms would be referred to Council for consideration and determination.

**(c) Legal Implications**

The Railway Station Masters Residence House is owned by Transport for NSW and as such Transport for NSW will make any final decision regarding the future use and form of occupancy of the building. See the **ATTACHED** refer **ANNEXURE 1**.

**(d) Community Consultation**

Letters of Support have been received from the University of New England, Arts North West and the Tamworth Local Aboriginal Land Council in regards to the proposal for an Artist-in-Residency program to be established in the Station Master's Residence. The outcome of an AIR would see a sculptor, musician, artist, aboriginal crafts or writer etc. be housed for a set term. This proposal is considered by TfNSW to be its preferred option for the re-purposing of the building.

See the **ATTACHED**, letters of support refer **ANNEXURE 2, ANNEXURE 3 and ANNEXURE 4** from the University of New England, Arts North West and the Tamworth Local Aboriginal Land Council.

As part of the community consultation process, research into other AIR programs has been conducted. Examples of other Artist-in-Residency programs include 'A month in the Country' supported by Albury City Council, 'Hill End Artist in Residence Program' supported by Bathurst Regional Council, and 'Nancy Fairfax Artist-In-Residence' supported by Tweed Shire Council.

**(e) Delivery Program Objective/Strategy**

A Spirit of Community – C21 Preserve and celebrate the character, heritage and culture of our city, towns and villages

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## **8 INFRASTRUCTURE AND SERVICES**

### **8.1 TAMWORTH GLOBAL GATEWAY PARK - PHASE 2 DESIGN FUNDING**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Callum Fletcher, Senior Project Engineer  
**Reference:** Item 9.1 to Ordinary Council 8 September 2020 - Minute No 275/20

2 ENCLOSURES ENCLOSED

#### **RECOMMENDATION**

*That in relation to the report "Tamworth Global Gateway Park - Phase 2 Design Funding", Council approve the allocation of \$391,750 from the Westdale Land Reserve to fund the detailed design of Phase 2 development projects associated with the Tamworth Global Gateway Park.*

#### **SUMMARY**

The purpose of this report is to seek Tamworth Regional Council's approval to fund the detailed design of all Phase 2 development projects proposed for the Tamworth Global Gateway Park.

#### **COMMENTARY**

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## **Tamworth Global Gateway Park**

Council has purchased and begun to develop a 246-hectare parcel of land to the west of the city that is bounded by Goddard Lane to the west, Goonan Street to the north, Marathon Street to the east, and the Oxley Highway to the south, collectively named the Tamworth Global Gateway Park (TGGP). The land has been purchased to allow Council to facilitate the construction of the Tamworth Intermodal Freight Facility (TIFF) and to provide future industrial and commercial lots for Tamworth.

### **Development Phases**

To assist in the strategic planning and delivery of the TGGP, the design and construction of the development has been staged, with multiple stages grouped into larger phases. This allows long term planning activities to be undertaken based on the expected growth of the development. The phase plan for the TGGP precinct development is **ENCLOSED**, refer **ENCLOSURE 1**. The staging plan for the TGGP precinct is also **ENCLOSED**, refer **ENCLOSURE 2**.

Phase 1 of the TGGP development is currently underway and involves the design and construction of the following projects:

- development Stages 1 to 4;
- buffer zone landscaping;
- TGGP entrance statements; and
- activation projects related to the TGGP:
  - TIFF enabling works;
  - trunk stormwater downstream of the TGGP;
  - Jewry Street extension from Dampier Street to Wallamore Road; and
  - Country Road roundabout at the Oxley Highway.

Phase 2 of the TGGP development is proposed to involve the design and construction of the following projects:

- development Stages 5 to 7, including 2.6km of roads, associated utilities, and 33ha of lot filling;
- Murroon Creek rehabilitation, including 10ha of landscaping rehabilitation and maintenance; and
- Murroon Creek stormwater management, including 400lm of engineered stormwater channels, detention basins (pending final stormwater design), and 15ha of landscaping.

The sequence of constructing Stages 5 to 7 will be influenced by market demand for the resulting lots. This may result in later stages being constructed first i.e. Stage 7 may be constructed prior to Stage 5. It is anticipated that one stage will be planned, constructed, and subdivided over a two-year period, subject to sales activity. Subsequent stages would then commence thereafter. The project team will continue to report back to Council regularly to update the staged construction progress.

Phase 3 refers to the remainder of the TGGP. It is likely that this phase will be broken down further into additional phases, again driven by market forces.

### **Phase 1 Performance**

Stage 1 sales enquiries have been particularly strong with currently 83% of Stage 1 lots (72% by area) either under contract or on hold pending Council approvals. Projected sales income for these lots is approximately \$8.9 million. Contracts have been exchanged for two of these Stage 1 lots. Stage 2 sales enquiries are also sound with several lots currently on hold.

Council have enjoyed a period of strong sales enquiries for Stages 1 and 2 due to an environment of low interest rates and limited supply of industrial ready land in the region. With property sales being a cyclical market, the risk of slowing sales enquiries should be noted. The proposed lot sizes of 3,000-5,000m<sup>2</sup> within Stage 5 make for more affordable options for small and mid-sized enterprise groups, also making them ideal for potential slower market periods.

The sound sales performance experienced to date for Phase 1 has provided justification to commence investigations into bringing additional lots to the market as part of Phase 2.

### Detailed Design of Phase 2

The detailed design of all Phase 2 projects are required to be completed to enable the detailed construction estimates to be completed and funding pre-approvals to be obtained. This will allow Council to have the next stages shovel ready to be able to react quickly to market conditions and specific requests from potential lot purchasers.

Cost estimates for the detailed design of Phase 2 projects have been derived based on a percentage allocation of the capital construction estimates. The resulting estimates presented in Table 1 are consistent with final design costs associated with Phase 1.

The capital construction estimates provided in Table 1 have also been completed on feasibility staging plans and are subject to further change and refinement as part of the detailed design process.

Stage 5 design consultant fees have been reduced as partial funding has already been provided for this design as part of the detailed design of the adjacent Stage 3.

Table 1 – Estimate of expenses related to Phase 2 design costs

Project	Capital Construction Estimate	Item	% of Capital Estimate	Estimate
Stage 5	\$ 6,500,000	Design Management	0.2	\$ 13,000
		Consultant Fees	1.0	\$ 65,000
Stage 6	\$ 5,300,000	Design Management	0.2	\$ 10,600
		Consultant Fees	2.3	\$ 121,900
Stage 7	\$ 5,600,000	Design Management	0.2	\$ 11,200
		Consultant Fees	2.3	\$ 128,800
Murroon Creek	\$ 1,650,000	Design Management	0.2	\$ 3,300
		Consultant Fees	2.3	\$ 37,950
<b>TOTAL</b>				<b>\$ 391,750</b>

#### (a) Policy Implications

Nil



**(b) Financial Implications**

Part of the design costs associated with Stage 5 has already been allocated in the current Phase 1 budget, funded from Council's external loan. Additional funding is required based on the complexity of the design, as noted in Table 1.

The total detail design cost of \$391,750 is proposed to be sourced from the Westdale Land Reserve to fund the design activities associated with Phase 2. Sales income from Phase 2 is to be allocated to the repayment of this amount back into the Westdale Land Reserve.

A business case will be presented at a future Council meeting for the delivery of Phase 2, with the business case detailing the expected expenditure and income associated with Phase 2 and evaluating this against the performance of Phase 1.

**(c) Legal Implications**

Consultants undertaking design activities will be engaged under the general conditions contract for consultants (AS4122-2010) or similar. A single consultant may be engaged for all packages or multiple consultants engaged for separate packages.

**(d) Community Consultation**

Blueprint 100 notes the TGGP as the key employment growth area for the region. The document was on public exhibition from 2 March 2020 to 9 April 2020, in conjunction with print media, social media, and media releases with community consultation sessions held in Tamworth, Manilla, Barraba, Nundle, and Kootingal.

**(e) Delivery Program Objective/Strategy**

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

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**8.2 EXPRESSION OF INTEREST – LEASE OF LAND ADJACENT TO BOLTONS CREEK, NEW WINTON ROAD, WESTDALE**

**DIRECTORATE: WATER AND WASTE**  
**AUTHOR: Daniel Coe, Manager - Water and Environmental Operations**

**RECOMMENDATION**

***That in relation to the report “Expression of Interest – Lease of land adjacent to Boltions Creek, New Winton Road, Westdale”, Council:***

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

**SUMMARY**

The former Operational Agreement for the Tamworth Effluent Reuse Farm (TERF) included a 265-hectare dryland farming area. As part of the retendering process for the TERF undertaken in 2020/2021 this parcel of land was excluded from the revised Operating Agreement to allow Council alternative options for the use of this land. This report seeks

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direction from Council in relation to whether Council would like to consider leasing the property via an expression of interest process.

### COMMENTARY

Council acquired the property in the vicinity of Boltons Creek, New Winton Road and Oxley Highway as shown below as part of initial planning for an effluent reuse scheme for Tamworth. Note - access to the area shown in blue has recently been removed from the land parcel following the installation of an airport security fence.



Earlier design options for the effluent reuse scheme proposed to include this area as part of the irrigation scheme. The final approved effluent reuse scheme excluded this land area for number of reasons including the proximity to the Tamworth Airport. Subsequently, this land was included in the original Operational Agreement for the Tamworth Effluent Reuse Farm (TERF) allowing the Farm Operator to dryland farm this area in addition with providing access and use to the environmentally sensitive Grassy Box Woodland area along Boltons Creek. This area could only be used in accordance with the environmental management plan developed for this area.

As part of the tendering process for the TERF operation undertaken in 2020/2021, Council resolved to remove this land area from a future Operational Agreement. This decision was based on allowing Council more flexibility in terms of future land use, i.e. lease arrangement to suit the site constraints which include:

- management of the Grassy Box Woodland area on Boltons Creek in a manner that ensures compliance with environmental approvals;
- management of per fluorinated alkyl substance (PFAS) contamination risks. These risks exist due to the historical use of firefighting foams containing this material on adjacent airport land; and
- management and allocation of the land to suit Council's Airport Master Plan and growth strategy.

Given the management issues identified above, it is recommended the property is not suitable for disposal/sale and given Council incurs costs through the ownership and

maintenance of the property, these costs could be offset through leasing the property. The property constraints make the land most suited to cattle grazing for the following reasons:

- 1) the Grassy Box Woodland area is required to be managed by allowing cattle to crash graze grasses on a regular basis; and
- 2) PFAS contamination studies completed on the property and adjacent airport land identify and recommend grazing by cattle rather than other livestock as this poses a low to negligible risk.

The fencing infrastructure on the property is in good condition and would allow leasing without any expenditure. The property has a potable water connection to troughs within the Grassy Box Woodland area, and the remainder of the property has a number of dams for water access.

If Council agreed that maintaining ownership of the property was appropriate and Council wished to lease the property, then a public Expression of Interest (EOI) process is appropriate with the EOI documents including the following terms:

- any lease would be on a two-year basis, with the lease including a 12-month option – this would allow Council flexibility to use the property for some other purpose without having to terminate an existing lease. This timeframe aligns with Council’s Airport Master Plan review and development;
- in the event the lessee sought to exercise the option, Council would be under no obligation to agree to the request;
- the lease would define and require the use of cattle on the property, with the lessee required to use cattle within the Grassy Box Woodland area as per the site management plan as/when directed by Council; and
- the lease would allow Council, or its contractors access to the site to undertake investigations of any kind, where reasonable notice has been given to the lessee of Council’s intention to enter.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

The Expression of Interest process would require potential lessees to advise Council the amount they would be prepared to pay Council to lease the property. This would be a consideration in the final decision of the successful applicant.

**(c) Legal Implications**

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

**(d) Community Consultation**

An Expression of Interest for the potential lease of the property would be advertised.

**(e) Delivery Program Objective/Strategy**

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

### **8.3 TAMWORTH REGIONAL LOCAL TRAFFIC COMMITTEE MEETING MINUTES - 6 OCTOBER 2021**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Angela Webb, Operations Engineer, Road Infrastructure  
Murray Russell, Manager Infrastructure and Works - Regional Services

**12 ANNEXURES ATTACHED**

#### **RECOMMENDATION**

*That in relation to the report “Tamworth Regional Local Traffic Committee Meeting Minutes - 6 October 2021”, Council:*

- (i) approve:*
  - the installation of the pedestrian infrastructure around schools, as per the 100% design drawings; and*
  - the installation of No Parking zones from 8.00am to 4.00pm on school days on Brisbane Street, adjacent to 147 Brisbane Street on a trial basis;*
- (ii) approve the installation of signs and linemarking as per the attached drawing documents for the Tamworth Global Gateway Park (TGGP) Stage 2 development;*
- (iii) approve the road closures and changes to traffic management for the 2022 Tamworth Country Music Festival, as per the draft Traffic Management Plans and draft Traffic Control Plans;*
- (iv) approve the proposed traffic management for the running of the Tamworth Triathlon Club events on various Saturdays and Sundays from 13 November 2021 to 19 March 2022;*
- (v) approve the closure of Carter Street, Solander Drive at Riverside, Locks Lane and No.1 Oval access road Tamworth, on Sunday 7 August 2022, from 6.00am to 2.00pm, for the 47th Annual Tamworth Running Festival;*
- (vi) approve:*
  - the closure of Fitzroy Street, Tamworth between Peel Street and Kable Avenue, from 6.00am to 10.00pm on 3 December 2021; and*
  - the closure of Kable Avenue, Tamworth at the Fitzroy Street intersection, from 7.00pm to 10.00pm, for the annual Lighting of the Christmas Tree event on 3 December 2021.*
- (vii) approve a 12 month blanket road closure for the Fitzroy Street Mall, for the purpose of holding events, on Fridays, Saturdays and Sundays.*

#### **SUMMARY**

The purpose of this report is to advise Tamworth Regional Council of seven recommendations made by the Tamworth Regional Local Traffic Committee (the Committee) at the meeting held on 6 October 2021.

#### **COMMENTARY**

The draft minutes from the Committee meeting held 6 October 2021, are **ATTACHED**, refer **ANNEXURE 1**.

### **Infrastructure Around Schools**

The design for the first 19 sites have progressed to 100%. Designs are **ATTACHED**, refer **ANNEXURES 2, 3 and 4**. The sites are as follows:

1. Hillvue Public School - Hillvue Road adjacent to school – existing pedestrian crossing;
2. Hillvue Public School - John Street – existing children’s crossing;
3. Hillvue Public School - Duri Road – existing pedestrian crossing;
4. Hillvue Public School - Warral Road – existing pedestrian crossing;
5. Hillvue Public School - Robert Street intersection with Warral Road;
6. Tamworth South Public School – Petra Avenue;
7. Tamworth South Public School – Woodward Avenue;
8. Tamworth South Public School – Kent Street;
9. Westdale Public School – Gunnedah Road – existing children’s crossing;
10. Westdale Public School – Marathon Street;
11. Kootingal Public School – Denman Avenue:
  - a. adjacent to 39 Denman Avenue, north of school zone pavement marking;
  - b. north of Barber Street (near 71 Denman Avenue); and
  - c. adjacent to school.
12. Attunga Public School – Attunga Street – existing children’s crossing;
13. Manilla Central School - Arthur Street – existing pedestrian crossing;
14. Manilla Central School and St Michaels Primary School – Court Street;
15. Moonbi Public School – Charles Street carpark;
16. Dungowan Public School - Ogunbil Road;
17. Calrossy Anglican School - Brisbane Street;
  - a. adjacent to intersection of Raglan Street; and
  - b. between school driveways.
18. Calrossy Anglican School – Raglan Street; and
19. Calrossy Anglican School – Bourke Street.

Council has received feedback from property owners on Brisbane Street who have concerns regarding the parking behaviour of staff and parents at Calrossy School. The complaint is that school staff and parents block the driveway access by parking across or in front of the access during school pick up and drop off, and throughout the school day. A timed parking restriction to mitigate the concerns is requested as part of the infrastructure around schools works, adjacent to the properties. See Figure 1 below.



Figure 1: location of requested No Parking zone

**COMMITTEE RECOMMENDATION:** the Committee support:

1. in principle, the installation of the pedestrian infrastructure around schools, as per the 100% design drawings; and
2. the installation of No Parking zones from 8.00am to 4.00pm on school days on Brisbane Street, adjacent to 147 Brisbane Street on a trial basis.

### Signage and linemarking for TGGP Stage 2

TGGP Stage 2 signs and linemarking have been finalised. Design vehicle is a B-Triple, and the check vehicle is an A-Triple vehicle. The drawings are **ATTACHED**, refer **ANNEXURE 5**.

**COMMITTEE RECOMMENDATION:** the Committee support the installation of signs and linemarking as per the attached drawing documents for the TGGP Stage 2 development.

### 2022 Tamworth Country Music Festival – 14 to 23 January 2022

Council propose to hold the annual Tamworth Country Music Festival from 14 to 23 January 2022.

Traffic management and road closures will be as per previous years. The draft Traffic Control Plans (TCP) and Traffic Management Plans (TMP) are **ATTACHED**, refer **ANNEXURES 6, 7 and 8**. Dates are summarised below in Figure 2.

TAMWORTH COUNTRY MUSIC FESTIVAL FRIDAY 14/03/2022 to SUNDAY 23/01/2022 TRAFFIC MANAGEMENT PLAN 2020						
Day	Date	Peel Street White Street to Brisbane Street	Fitzroy Street Smith Place egress to Kable Avenue	Kable Avenue Brisbane Street to south of Fitzroy Street	Brisbane Street Kable Avenue to Marius Street	Peel Street Brisbane Street to Bourke Street
Wednesday	12/01/2022		Closed 5am	Closed 5am		
Thursday	13/01/2022	Closed 4am				
Friday	14/01/2022	Closed Day/Night	Closed Day/Night	Closed Day/Night	Remains Open	Remains Open
Saturday	15/01/2022					
Sunday	16/01/2022					
Monday	17/01/2022					
Tuesday	18/01/2022					
Wednesday	19/01/2022					
Thursday	20/01/2022					
Friday	21/01/2022					
Saturday	22/01/2022					
Sunday	23/01/2022					
Monday	24/01/2022	Re-open 7pm				
Tuesday	25/01/2022		Re-open 6pm	Re-open midday		
<b>Cavalcade &amp; Camping Area Temporary Closures</b>						
<b>Cavalcade Commences at 9am Saturday 22/01/2022</b>  <b>Roads closed between 6am – 11am</b>	O'Connell and Macquarie Streets - Marius Street to Peel Street Peel Street - Brisbane Street to Bligh Street Peel Street - Hill Street to White Street Peel Street - Hill Street to Murray Street Kable Avenue – Hill Street to Roderick Street Roderick Street - Kable Avenue to Byrnes Avenue					
<b>Carter Street Camping Area</b>	<b>Carter Street</b> , between Plain & Bridge Streets closed from 7am on Friday 14/01 until 6am on Tuesday 25/01 <b>Plain Street</b> , between Ebsworth & Carter Streets closed from 7am on Friday 14/01 until 7am on Tuesday 25/01					

Figure 2: proposed road closures for the 2022 Tamworth Country Music Festival

**COMMITTEE RECOMMENDATION:** the Committee support the road closures and changes to traffic management for the 2022 Tamworth Country Music Festival, as per the attached draft TMPs and draft TCPs.

### Tamworth Triathlon Club 2021-2022 triathlon season

The Tamworth Triathlon Club propose to hold the annual triathlon race events in Kootingal, on various Saturdays (4.00pm to 7.00pm) and Sundays (6.30am to 10.00am) from 13 November 2021 to 19 March 2022.

The TCPs are **ATTACHED**, refer **ANNEXURE 9, 10 and 11**.

**COMMITTEE RECOMMENDATION:** the Committee support the proposed traffic management for the running of the Tamworth Triathlon Club events on various Saturdays and Sundays from 13 November 2021 to 19 March 2022.

### Tamworth Running Festival 2022 – Sunday 7 August 2022

The Tamworth Triathlon Club propose to hold the 47th Annual Tamworth Running Festival on Sunday 7 August 2022, from 6.00am to 2.00pm.

The festival will comprise of six events, and require road closures as follows:

1. Half Marathon (21.9 kilometres) – road closure of Carter Street, Solander Drive at Riverside, Locks Lane and No.1 Oval access road;
2. Tamworth Ten (10 kilometres) – road closure of Carter Street, Solander Drive at Riverside, Locks Lane and No.1 Oval access road;
3. Fun 5 (five kilometres) – off road;
4. Community Walk (four kilometres) – off road;
5. Dash for Cash (various) – off road; and
6. The Tamworth Triple - 21.9 kilometres plus 10 kilometres plus five kilometres.

TCPs are **ATTACHED**, refer **ANNEXURE 12**. The road closures will be implemented by Council staff or licenced contractors.

**COMMITTEE RECOMMENDATION:** The Committee support the closure of Carter Street, Solander Drive at Riverside, Locks Lane and No.1 Oval access road, Tamworth on Sunday 7 August 2022, from 6.00am to 2.00pm, for the Annual Tamworth Running Festival.

### 2022 Lighting of the Christmas Tree – closure Fitzroy Street, Tamworth

The closure of Fitzroy Street, between Peel Street and Kable Avenue, and Kable Avenue at Fitzroy Street, is proposed by Council events team for the annual lighting of the Christmas tree event, on 3 December 2021, from 6.00am to 10.00pm. See Figure 3 below.



Figure 3: location of road closures

The site plan is still to be finalised as buses are operating along Kable Avenue until 7.00pm.

**COMMITTEE RECOMMENDATION:** The Committee support:



1. the closure of Fitzroy Street, Tamworth between Peel Street and Kable Avenue, from 6.00am to 10.00pm, 3 December 2021; and
2. the closure of Kable Avenue, Tamworth at the Fitzroy Street intersection, from 7.00pm to 10.00pm, for the annual lighting of the Christmas Tree event on 3 December 2021.

### **Blanket road closure for Fitzroy Street Plaza Events**

COVID-19 restrictions meant the meeting to discuss this matter was cancelled. Council is seeking approval for a 12 month blanket road closure for the Fitzroy Street Mall, for the purpose of holding events, on Fridays, Saturdays and Sundays.

**COMMITTEE RECOMMENDATION:** The Committee support a 12 month blanket road closure for the Fitzroy Street Mall, for the purpose of holding events, on Fridays, Saturdays and Sundays.

#### **(a) Policy Implications**

Nil

#### **(b) Financial Implications**

49/2021 - Infrastructure Around Schools – will be funded by the project budget under Transport for NSW (TfNSW) grants.

91/2021 – Signage and line marking for TGGP Stage 2 - will be funded by the project budget.

92/2021 – 2022 Tamworth Country Music Festival – will be funded from the event traffic management budget for Tamworth Country Music Festival 2022 events.

94/2021 – Tamworth Triathlon Club 2021-2022 triathlon season – will be funded by the event organiser.

95/2021 – Tamworth Running Festival 2022 – will be funded by the event organiser.

97/2021 – 2022 Lighting of the Christmas Tree – will be funded by the existing Christmas event and traffic management for events budgets.

99/2021 - Blanket road closure for Fitzroy Street Plaza Events – will be funded from the existing event traffic management budget for internal events and by the event organiser for external events.

#### **(c) Legal Implications**

Nil

#### **(d) Community Consultation**

49/2021 - Infrastructure Around Schools:

The 50% and 100% designs have been distributed via post and email to identified stakeholders; being transport companies, schools and adjacent property owners. A page with project information has been created on Council's website for the general public to obtain background details and ongoing updates on the project. Feedback is being reviewed and responded to on an ongoing basis.

#### **(e) Delivery Program Objective/Strategy**

An Accessible Region – A23 Traffic Management and traffic safety planning

## 8.4 DROUGHT ECONOMIC IMPACT STUDY

**DIRECTORATE:** WATER AND WASTE  
**AUTHOR:** Louise Cadell, Sustainability Officer - Water  
**Reference:** Item 8.2 to Ordinary Council 24 August 2021 - Minute No 238/21

**1 ANNEXURES ATTACHED**

**1 CONFIDENTIAL ENCLOSURES ENCLOSED**

### **RECOMMENDATION**

*That in relation to the report “Drought Economic Impact Study”, Council:*

- (i) agree to rename the study, “Economic Benefits of a More Reliable Water Supply for Tamworth”;*
- (ii) proceed with the scope of works as outlined in the current Request for Quotation;*
- (iii) agree to formally accept Option 1 of the Regional Australia Institutes submission; and*
- (iv) agree to make funding available from the Water Reserve to complete the study.*

### **SUMMARY**

In the last 15 years, the Tamworth Region has experienced two severe droughts, and multiple periods of water restrictions. While there is anecdotal evidence which suggests people either left Tamworth during this time, chose not to move to the region, and that some businesses either did not move to Tamworth and/or questioned their long-term future here, the full extent of the economic impact of prolonged drought remains largely unknown.

The purpose of this report is to recommend Council proceed with a study, titled ‘Economic Benefits of a More Reliable Water Supply for Tamworth.

The resulting study will be used to:

- support State and Federal Government lobbying efforts for reform leading to greater water security and sustainability; and
- improve Council’s response and engagement with businesses during future periods of water restrictions and drought.

A Councillor workshop was held following the Ordinary Meeting on 24 August 2021.

### **COMMENTARY**

Throughout the recent drought, Tamworth suffered an extended period of level 5 water restrictions, negatively impacting on the amenity, reputation and economy of the region. While anecdotal evidence suggests the impact to businesses was extensive, there is little to no evidence to document the actual extent of these impacts.

With the aim of better understanding the impacts, Council staff prepared a Request for Quotation (RFQ) to conduct an economic impact study which was forwarded to three suitably qualified organisations for response.

The original RFQ is **ATTACHED** refer **ANNEXURE 1**. The objectives in the RFQ were as follows:

Tamworth Regional Council acknowledges that the drought period impacted on the regional economy and now wishes to investigate what those impacts were, including but not limited to:

- *lost investment opportunities for business and industry due to water restrictions and lack of raw water supply;*
- *decrease in new resident attraction;*
- *impact of the media and negative perceptions on business operations, investment and general population growth;*
- *business closures directly or indirectly due to drought;*
- *reduction in business turnover;*
- *impacts on accommodation providers:*
  - *loss of business or reduction in occupancy rates;*
  - *impact on services provided i.e. unable to fill pools – additional cost to purchase water or closure of pools;*
- *additional cost to conduct Business as Usual BAU for existing businesses including, but not limited to, businesses who were no longer able to use reticulated water or had to cart water i.e. Construction services, swimming pool installation and maintenance, garden and lawn maintenance, real estate and property management etc.;*
- *impact on large water users and associated industries:*
  - *cost of implementing additional water saving technology/practices;*
  - *reduction in stock numbers and associated impacts on transport and freight; and*
  - *reduction in operating hours and output.*

The organisations approached to submit an RFQ were identified with the assistance of Councils Economic Development division. Of the three identified, only one submission was returned from the Regional Australia Institute (RAI) which proposed partnering with the CSIRO to conduct the study.

The submission from RAI and CSIRO is comprehensive and it is believed would deliver the outcomes identified in the RFQ. The proposal presented two options to undertake the study as shown below. The costs associated with each proposal are shown in the document **ENCLOSED**, refer **CONFIDENTIAL ENCLOSURE 2**.

#### **Option 1**

Phase 1: Baseline Data

##### **Objective**

To assess key socioeconomic data to set a robust baseline over which the economic impacts of the 2017-2019 drought on Tamworth, and the regional economy, can be evaluated.

##### **Outputs**

- an accurate baseline on the economic impact of the drought on Tamworth and the regional economy for at least the top five sectors by employment and output; and
- an understanding of the strategies used by businesses to manage water demand and

supply during drought.
<p>Phase 2: Modelling and Analysis</p> <p><b>Objective</b></p> <p>To quantitatively analyse the impact of drought conditions in the Tamworth region and build an economic analysis to better understand the costs and impacts generated by drought to Tamworth Regional Council.</p> <p><b>Outputs</b></p> <ul style="list-style-type: none"> <li>• hydroclimate projections under future climate scenarios for the Tamworth region;</li> <li>• quantitative and qualitative outputs will provide insights on the likely costs and impacts that drought has produced in the regional economy of TRC; and</li> <li>• limited set of scenarios</li> </ul>
<p>Phase 3: Validation and Reporting</p> <p><b>Objective</b></p> <p>To validate the findings of the modelling and analyses with a core group of stakeholders, and develop and finalise reporting to TRC.</p> <p><b>Outputs</b></p> <ul style="list-style-type: none"> <li>• finalised projections and outputs; and</li> <li>• draft and final report.</li> </ul>

Option 1 would take approximately four months to complete.

**Option 2**

Phase 1: Baseline Data
<p>Phase 2: Modelling and Analysis</p> <p>Including additional modelling and analysis</p> <p><b>Additional Outputs</b></p> <p>In-depth narratives describing potential economic impact of drought on Tamworth region, tested and refined in Phase 3 through a further, iterative community consultation process.</p>
<p>Phase 3: Validation and Reporting</p> <p>Including forecasting and model refinement with stakeholders</p> <p><b>Additional Activities</b></p> <p>To forecast the future impacts of prolonged drought and critical water supply levels, and in addition to the aforementioned activities, the combined outputs from the analysis and models would be presented in a series of plausible hydro-economic future scenarios to stakeholders. As noted in Phase 2, these would be validated through an iterative stakeholder engagement process, which would provide key insights into how actors are likely to respond under future drought conditions and impacts.</p>

Option 2 would take approximately six months to complete and would offer more detail and include forecasting future impacts of drought, at a considerably greater cost than Proposal 1.

Council considered a report on this matter at its meeting of 24 August 2021 and resolved to defer consideration of this item until after a Councillor workshop could be held to further discuss this matter.

Subsequently, a Councillor workshop was held on 12 October 2021 with further information provided to Councillors including the matters raised by Councillors at the meeting of 24 August 2021.

Outcomes of the workshop included:

- Councillors agreed a strong focus on the economic benefits of water security and sustainability should form the basis of the study. It is therefore recommended the name of the study be changed to, “Economic Benefits of a More Reliable Water Supply for Tamworth”; and
- Councillors agreed to progress with the current scope of works, without change, and accept one of the options submitted by Regional Australia Institute, following the RFQ process.

It is recommended that Councillors progress with Option 1, which provides valuable insight into the economic benefits of water security and sustainability.

Given that the Region is no longer affected by drought and Council is currently reviewing the Drought Management Plan, drawing on recent experiences to guide the review, it is considered pertinent to look more closely at the impacts on businesses and what activities could be undertaken by Council immediately and in the future. Information gained from the study could be used for:

- lobbying other tiers of government for policy review and change to negate future impacts during drought and higher levels of restrictions;
- lobbying other tiers of government in relation to greater water security;
- additional support and information sharing opportunities for Council to consider; and
- additional communications and engagement activities Council could consider during times of water supply stress.

In order to proceed with Option 1 as per the recommendation, funding is required to be made available from the Water Reserve.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

To undertake this work, funding to engage Regional Australia Institute in partnership with the CSIRO would have to be made available from the Water Reserve

**(c) Legal Implications**

Nil

**(d) Community Consultation**

Should Council choose to undertake a Drought Economic Impact Study, the consultant engaged would undertake consultation with regional businesses and other community stakeholders.

**(e) Delivery Program Objective/Strategy**

A Region for the Future – F22 Encourage efficient use of resources to improve environmental sustainability.

## 9 GOVERNANCE, STRATEGY AND FINANCE

### 9.1 COUNCIL INVESTMENTS SEPTEMBER 2021

**DIRECTORATE:** OFFICE OF THE GENERAL MANAGER  
**AUTHOR:** Sherrill Young, Acting Chief Financial Officer

**1 ANNEXURES ATTACHED**

#### RECOMMENDATION

*That in relation to the report “Council Investments September 2021”, Council receive and note the report.*

#### SUMMARY

The purpose of this report is to provide an overview of Council Investments for the month of September 2021, and highlight the continued impact of low interest rates on Council's Budget

#### COMMENTARY

In accordance with Section 212 of the Local Government (General) Regulation 2021, the details of all money invested by Council as at 30 September 2021, is **ATTACHED**, refer **ANNEXURE 1**.

The following table provides a summary of the types of investments held and the institution they are held with:

Institution	Cash at Bank	Financial Assets Amortised Cost	Financial Assets at Fair Value	Total	% of Total
NAB	6,693,134.82	9,000,000.00	0	15,693,134.82	8.45%
BOQ	0	17,900,000.00	0	17,900,000.00	9.63%
CBA	0	102,500,000.00	0	102,500,000.00	55.17%
St George	0	4,000,000.00	0	4,000,000.00	2.15%
TCorp	0	0	5,377,617.84	5,377,617.84	2.89%
Westpac	0	40,347,747.14	0	40,347,747.14	21.71%
<b>TOTAL</b>	<b>6,693,134.82</b>	<b>173,747,747.14</b>	<b>5,377,617.84</b>	<b>185,818,499.80</b>	<b>100%</b>

The amount invested at 30 September 2021, has decreased by \$6,862,645.61 compared to funds held at 31 August 2021.

Council's investments are mostly comprised of restricted funds that have been received for specific purposes or funds held for future renewal works. The following table provides an indicative summary of investments held by each fund. The figures provided are based on Opening Balances from the last completed and audited financial year. The figures provide a guide on the proportion of total cash that is restricted in use.

<b>Fund</b>	<b>Restriction</b>	<b>Amount</b>	<b>%</b>
General	Unrestricted	6,085,098	3.27%
General	Internally Restricted	55,135,644	29.68%
General	Externally Restricted	11,416,349	6.14%
	<b>General Fund Total</b>	<b>72,637,091</b>	<b>39.09%</b>
Water	Unrestricted	2,211,934	1.19%
Water	Internally Restricted	23,145,700	12.46%
Water	Externally Restricted	25,261,589	13.59%
	<b>Water Fund Total</b>	<b>50,619,223</b>	<b>27.24%</b>
Sewer	Unrestricted	2,244,467	1.21%
Sewer	Internally Restricted	44,761,907	24.09%
Sewer	Externally Restricted	15,555,812	8.37%
	<b>Sewer Fund Total</b>	<b>62,562,186</b>	<b>33.67%</b>
	<b>Total Investments</b>	<b>185,818,500</b>	

Moneys received for each fund can only be used within that fund. An explanation for each category of restriction is described below:

#### **Unrestricted**

These are funds required to meet short term cash flow requirements and contingencies to maintain solvency.

#### **Internally Restricted**

Funds set aside for future commitments mostly relate to asset renewals, remediation works, or leave provisions. For General Fund, this includes self-funding activities such as the Airport, Waste Management and Fleet operations.

#### **Externally Restricted**

Funds provided for specific purposes such as developer contributions, grants and loans.

The use of restricted funds is largely controlled by 10-20 year Asset Management Plans which are included in the Resourcing Strategy of Council's Community Strategic Plan.

#### **(a) Policy Implications**

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

**(b) Financial Implications**

Interest rates on borrowings remain low but conversely returns on investment are negligible.

**(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 215; and
- Local Government Code of Accounting Practice & Financial Reporting – Update No 15 dated June 2007.

**(d) Community Consultation**

Nil

**(e) Delivery Program Objective/Strategy**

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

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**9.2 ANNUAL OPERATIONAL PLAN 2021/2022 BUDGET VARIATION REPORT - SEPTEMBER 2021 – FILE NO**

**DIRECTORATE: OFFICE OF THE GENERAL MANAGER**

**AUTHOR: Sherrill Young, Acting Chief Financial Officer**

**Reference: Item 9.5 to Ordinary Council 29 June 2021 - Minute No 180/21**

**2 ANNEXURES ATTACHED**

**RECOMMENDATION**

*That in relation to the report “Annual Operational Plan 2021/2022 Budget Variation Report – September 2021”, Council note and approve:*

- revotes from the 2020/2021 year for inclusion in the current year's budget as listed in Annexure 1; and*
- the variations to the existing budget processed in September 2021, and included in Annexure 2.*

**SUMMARY**

This report seeks approval for revoted budgets totalling \$3.8M from the 2020/2021 financial year to be included in the current year budget. All funding sources for these non-recurrent projects remain unchanged from the original endorsement.

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The report also seeks approval for budget adjustments processed in the month of September 2021.

## COMMENTARY

Council adopted the original budget included in the Annual Operational Plan for 2021/2022 at the Ordinary Meeting of Council held 29 June 2021. 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 will provide Council with a full review of revised budget forecasts and actual year to date results.

In addition to September budget adjustments, this report includes revotes from the previous financial year. Revotes are budget items that were not included in the original budget for this financial year as incomplete works but still need to be carried out. As Council approval for the works listed in the **ATTACHED**, refer **ANNEXURE 1**, expired on 30 June 2021, they require a revote from Council to be completed in the current financial year. The funding source for these works remains unchanged.

Minimal budget adjustments were processed in September the most significant items being reconstruction and sealing of a Taxiway at the airport utilising \$300k of grant funds, and the deferral of works at the Forest Road Landfill. A summary of general budget variations is provided below with a detailed list **ATTACHED**, refer **ANNEXURE 2**.

### Variations identified September 2021

Description	Budget Variation	Operating Income	Operating Expenses	Capital Income	Capital Expenses
Economic & Destination Development	0	(15,903)	15,903	0	0
Business Systems & Solutions	100,000	0	100,000	0	0
Airport	0	0	0	(300,000)	300,000
Pilot Training Facility	(113,260)	(113,260)	0	0	0
Sport & Rec	0	0	0	(3,000)	3,000
Infrastructure & Projects	(7,541)	0	0	0	(7,541)
Waste Management	(1,673,360)	0	0	0	(1,673,360)
Laboratory	4,000	0	0	0	4,000
<b>TOTAL</b>	<b>(1,690,161)</b>	<b>(129,163)</b>	<b>115,903</b>	<b>(303,000)</b>	<b>(1,373,901)</b>

### Material differences between budget and actual income or expenditure

Nothing material to report in this period.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

The variations included in the report have the following impact on forecast results for 2021/2022 by fund of:

Fund	Operating Income	Operating Expenses	Capital Income	Capital Expenses
General	(129,163)	115,903	(303,000)	(1,373,901)
<b>Total</b>	<b>(129,163)</b>	<b>115,903</b>	<b>(303,000)</b>	<b>(1,373,901)</b>

**(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**

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

**9.3 FITZROY STREET PILOT ACTIVATION PROJECT**

**DIRECTORATE:**

**GROWTH AND PROSPERITY**

**AUTHOR:**

**Jacqueline O'Neill, Director Growth and Prosperity**

**5 CONFIDENTIAL ENCLOSURES ENCLOSED**

**RECOMMENDATION**

*That in relation to the report “Fitzroy Street Pilot Activation Project”, Council approve the staging of the events identified in the body of the report and their funding as noted in the enclosures from identified budget savings.*

**SUMMARY**

The purpose of this report is to seek Council approval for the staging of a series of micro events in Tamworth’s Fitzroy Street commencing in December. With the gradual easing of COVID-related Public Health Order restrictions small scale events have been identified as an opportunity to generate more activity in the Central Business District and to also provide some public activities following the cancellation of many events due to the pandemic. The events schedule, which is family friendly, also includes the Lighting of the Community Christmas Tree on 3 December 2021. Council is being asked to approve the staging of these events and also approve corresponding funding to enable event delivery.

**COMMENTARY**

Since March 2020, the COVID-19 pandemic resulted in the cancellation of nearly all Council-run community events. Some events in the current financial year have been rescheduled and will be staged in the last two quarters. With Public Health Order restrictions now being eased, it is proposed to stage a number of micro events in Tamworth's Fitzroy Street. This provides an opportunity to generate more activity in the Central Business District, activate the Fitzroy Street precinct and also to provide the community with some family friendly activities as it emerges from the COVID enforced hibernation. All events will be run under Public Health Order restrictions which are in place at the time they are staged. It is possible that changing Public Health Orders could make the events unviable and this would result in them being cancelled. It is proposed to stage the first event on 3 December 2021, with the events continuing through December and into the new year. A firm schedule will need to work around the quieter Christmas holiday period and the Country Music Festival.

The main events will be staged on a fortnightly schedule. On the alternate Saturday to the schedule it is proposed to introduce a small music event in the precinct during the morning. Savings have been identified within current budgets within the Growth and Prosperity Directorate, largely in the Events, Sister Cities and Entertainment Venue divisions to fund the events schedule.

The NSW Government has announced, through the Department of Planning, Industry and Environment, a grant funding initiative called Festival of Place Summer Night Fund Program. The funding, if granted, must be spent on evening or night time events from January until the end of April 2022. Council will be applying for one of these grants. At this time there are no grant funding options identified to support the events which are proposed.

Council is being asked to approve the following events and allocate the required funding which is outlined in the budgets as **ATTACHED**, refer **CONFIDENTIAL ENCLOSURES 1,2,3,4 & 5**.

The schedule for the proposed events is to be determined in line with the NSW Public Health Orders and event capacity limits.

The proposed events are as follows:

**Lighting of the Community Christmas Tree**

**Get Out Eat Out**

**Saturday Sounds**

**Movie Night**

**Saturday Sounds**

**Saturday Sounds**

**Family Night Out**

A brief description of each event is:

- **Get Out Eat Out** is a family food event. It will involve food trucks and food stalls, existing food businesses and live music. It will be held from 7pm to 9pm.
- **Movie Night** will see the projection of family movies on a big screen with snack and food stalls including popcorn, snow cones and fairy floss. It will be held from 7pm to 9pm.

- **Family Night** will focus on free family activities such as a jumping castle, food traders, Christmas craft workshops for children, face painting and live music. It will be held from 7pm to 9pm.
- **Lighting of the Community Christmas Tree** will be an expanded event this year. It will include activities such as jumping castle, face painting, candy canes and Christmas activities and treats. It will be held from 6pm to 8pm.
- **Saturday Sounds** will feature local artists for a two-hour set from 9am to 11am with production and staging being provided by Entertainment Venues. This is also designed to provide local artists with a kick start as the live music sector has been decimated by COVID restrictions and will be a good prelude to the 2022 Toyota Country Music Festival.

Income opportunities are extremely limited and while stall holders will be asked to pay a fee for their involvement, the income has not been calculated in the budget request. Any income achieved will reduce the costs accordingly.

These events are in line with Council's desire to see more community activities in Fitzroy Street following its beautification. The space lends itself to micro events and acting as an artery to larger events which would be held in Bicentennial Park.

The pilot concept is also in keeping with the NSW Government's post COVID economic recovery plan where it is encouraging activities in outdoor spaces and also activity in Central Business Districts.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

The amounts identified in the confidential enclosures for this project will be funded through current identified savings in budgets within the Growth and Prosperity Directorate, including Events, Sister Cities and Entertainment Venues.

**(c) Legal Implications**

The events will be held in accordance with Public Health Order restrictions at the time they are staged. If restrictions result in the events being unviable and they are unable to achieve their objective, the events will not proceed.

**(d) Community Consultation**

Nil. The events, however, will be marketed to advise the community when they are being staged.

**(e) Delivery Program Objective/Strategy**

A Spirit of Community – C21 Preserve and celebrate the character, heritage and culture of our city, towns and villages.

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**10 COMMUNITY SERVICES**

Nil

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## 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.*

### **E036/2022 EXPRESSION OF INTEREST - PROPOSED USE OF THE RANCH 226 OXLEY LANE WESTDALE**

**DIRECTORATE:** WATER AND WASTE  
**AUTHOR:** Bruce Logan, Director Water and Waste  
**Reference:** Item 8.1 to Ordinary Council 10 August 2021 - Minute No 232/21

**2 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

Council has received a number of Expressions of Interest for use of Council's property 'The Ranch' located at 226 Oxley Lane. The purpose of this report is to recommend to Council entering into a lease agreement, or similar, with one of proponents who lodged an Expression of Interest.

### **E037/2022 EXPRESSION OF INTEREST - PROPOSED USE OF 284 GIDLEY APPLEBY ROAD**

**DIRECTORATE:** WATER AND WASTE  
**AUTHOR:** Bruce Logan, Director Water and Waste  
**Reference:** Item 8.2 to Ordinary Council 10 August 2021 - Minute No 233/21

**2 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

Council has received a number of Expressions of Interest for use of Council's property located at 284 Gidley Appleby Lane. The purpose of this report is to recommend to Council entering into a lease agreement, or similar, with one of proponents who lodged an Expression of Interest.

### **NOVATION OF DEED OF OPTION**

**DIRECTORATE:** OFFICE OF THE GENERAL MANAGER  
**AUTHOR:** Kirrilee Ringland, Manager Property and Legal Services  
**Reference:** Item 7.2 to Ordinary Council 11 January 2018 - Minute No 5/18  
Item 12.1 to Ordinary Council 27 August 2019 - Minute No 286/19

**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**

The purpose of this report is to advise Council of a request to novate a Deed of Option for the lease of Council land.

### **TRELOAR PARK TENNIS REDEVELOPMENT - PROJECT STAKEHOLDER AGREEMENT AND TENDER T072/2022**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Mark Gardiner, Manager Project Planning and Delivery

The Council will determine this matter in part of the meeting closed to the public pursuant to Section 10A(2) (c) 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.

#### **SUMMARY**

This report is to seek Tamworth Regional Council's approval to enter in to an agreement with Tennis NSW and West Tamworth League Club for delivery of the Treloar Park tennis redevelopment project, in accordance with the requirements of the NSW Government's Regional Sports Facility Fund. The report also advises Council that, under delegated authority, it is expected the General Manager will award a contract for delivery of the new and upgraded courts and associated infrastructure, in accordance with tender number T072/2022 and the criteria in this report, in early December 2021.

### **TENDER T029/2022 - CONSTRUCTION OF BLYTH STREET AND MAHONY AVENUE SHARED PATHS**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Callum Fletcher, Senior 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 Tamworth Regional Council's acceptance of tender T029/2022 to award a lump sum contract for the construction of shared paths on Bligh Street and Mahony Avenue.

#### **T152/2021 TAMWORTH EFFLUENT REUSE FARM - TENDER FOR TWO NEW PIVOT IRRIGATORS**

**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) (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 advise Council of the outcome of the tender evaluation completed for the Design, Supply, Installation, Commissioning and Proving of two additional centre pivot irrigators at the Tamworth Effluent Reuse Farm (TERF) to expand the irrigated area from 600 to 690 hectares.

This report also provides details of the evaluation of the tenders for the upgrade of the existing 13 centre pivot irrigators to improve effluent application efficiency and overall long-term Reuse Farm sustainability.

#### **KOOTINGAL MULTI-PURPOSE CENTRE**

**DIRECTORATE: PLANNING AND COMPLIANCE**  
**AUTHOR: Kay Delahunt, Manager - Cultural and Community Services**  
**Gina Vereker, Director Planning and Compliance**  
**1 CONFIDENTIAL ENCLOSURES ENCLOSED**

The Council will determine this matter in part of the meeting closed to the public pursuant to Section 10A(2) (c) 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.

#### **SUMMARY**

As a result of a number of factors, particularly related to concerns raised by the Kootingal community, the relevance of the hall as a memorial and requests for design changes from the Kootingal Section 355 Committee, the Kootingal Multi-Purpose Centre project is now tracking over budget and outside of its initial project timeframe. This report recommends that

in order to enable the project to continue, Council approve an option to revise the funding and timeline for delivery of the project.

Council has been advised it will receive \$5,305,066 under the Local Roads and Community Infrastructure (LRCI) Phase 3 Funding Program. It is understood projects for LRCI Phase 3 will be selected for implementation in January 2022. In order to make up the funding shortfall, it is recommended that Council return the funding granted for this project under Phase 2 of the LCRI and include the Kootingal Multi-Purpose project in Council's funding submission to Phase 3.