

ORDINARY COUNCIL MEETING



Council Chambers, 4th Floor Ray Walsh House, 437 Peel Street

6:30PM WEDNESDAY 13 April 2011

Order Of Business

- 1 APOLOGIES**
- 2 COMMUNITY CONSULTATION**
- 3 MINUTES OF PREVIOUS ORDINARY MEETING – 22 March 2011 TO BE CONFIRMED (Enclosed)**
- 4 DISCLOSURE OF INTEREST**



Minutes Ordinary Council 22 March 2011

- Pecuniary Interest
- Non Pecuniary Conflict of Interest
- Political Donations

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Paul Bennett
General Manager

Council

Meeting Date: 2nd and 4th Tuesday of the month commencing at 6.30 p.m.

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 a management plan under section 406*
- *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: 5 members
Chairperson: The Mayor
Deputy Chairperson: The Deputy Mayor

OPEN COUNCIL REPORTS

6 ENVIRONMENT & PLANNING

6.1 TAMWORTH REGIONAL LOCAL ENVIRONMENTAL PLAN (TRLEP) 2010 – PLANNING PROPOSAL FRAMEWORK - FILE NO SF5115

DIRECTORATE: ENVIRONMENT AND PLANNING

AUTHOR: Genevieve Harrison – Manager Strategic Planning

ANNEXURE ATTACHED

RECOMMENDATION

That, in relation to the publication of Tamworth Regional Local Environmental Plan 2010:

- (i) council endorse the planning proposal framework (process, fees and prioritisation) identified in this report;*
- (ii) council support the inclusion in the 2011/2014 draft Management Plan of the planning proposal fees identified in this report; and*
- (iii) a further report be submitted to Council for consideration when the Minister for Planning provides a detailed rationale for each of the 17 amendments included in the published plan.*

SUMMARY

This report seeks Council's endorsement of a strategic framework to deal with planning proposals (amendments to the TRLEP 2010). Adoption of this framework will enable Council officers to continue to direct available resources into the most appropriate planning outcomes whilst ensuring a fiscally responsible approach to processing individual requests for planning proposals.

COMMENTARY

Planning Proposals under Consideration

The TRLEP 2010 was published on the NSW Legislation website on 21 January 2011. Whilst the TRLEP 2010 has effected a consolidation of five (5) separate LEPs which will result in a simplified, more streamlined development assessment process, a number of changes were made by the Minister for Planning (without consultation) prior to publishing the Plan. Council is currently awaiting a formal response from the Minister as to the rationale for each of the 17 changes that were made to the TRLEP 2010. However, in the interim, it is already apparent that several planning proposals (amendments to the Plan) will be required to address the consequences of the changes imposed by the Minister. There are also a number of other planning proposals that will need to be undertaken by Council to implement current/proposed Master Plans and to rectify anomalies within the Plan. A summary of these planning proposals is as follows:

1. Rezone land for bulky goods development (as a consequence of not being able to develop 'bulky goods premises' in the IN1 Industrial Zone).

2. Facilitate future growth of the food-processing sector at Glen Artney and permit future establishment of a cemetery (in accordance with the Glen Artney Development Strategy).
3. Implement the Longyard Trails Master Plan adjacent to AELEC (Jocep Enterprises) that has been in the planning phase for over five (5) years.
4. Implement the South Tamworth Rural Lands Master Plan (once finalised, publicly exhibited and adopted by Council).
5. Facilitate Housing Diversity in Urban Release Areas (eg smaller lot sizes within Peel River Estate).
6. Implement the Coedale planning proposals and site specific development controls for Department of Housing (to be public exhibited concurrently with the Coedale Revitalisation Strategy and Master Plan).
7. Several individual planning proposals to rectify and address dwelling permissibility issues arising from the Minister's changes to the TRLEP 2010.
8. Housekeeping amendments to remedy anomalies within the TRLEP 2010 such as incorrect property descriptions in the Schedules to the Plan.

In addition to the above proposals, Council staff continue to receive numerous enquiries from individual land owners in relation to the possibility of amending the TRLEP 2010 to rezone and/or alter dwelling permissibility for their properties. The development of a practical framework for consideration of these individual requests will ensure that there are sufficient resources within the Council to deliver key planning proposals.

Planning Proposal Processes

All LEPs including the TRLEP 2010 are legal instruments that impose standards to control development. The process for making a Region-wide LEP and for amending a Region-wide LEP is the same. That is, in order to amend a TRLEP 2010, it is necessary to make another LEP.

Only the Minister for Planning can **make** a LEP following a process set out in the Environmental Planning and Assessment (EP&A) Act.

A LEP can be **initiated** by either the Council (for the local government area to which the LEP applies), or the Minister for Planning.

Whether it is a Council that has initiated a LEP or the Minister, the body responsible for carrying out the process is known as the relevant planning authority (RPA). For Council-initiated LEPs, the RPA will be the Council. A diagram illustrating the planning proposal process is contained in' **ANNEXURE 6.1A**. The first step in creating or amending the LEP is the preparation of a planning proposal. A planning proposal is a document that explains the intended effect of the proposed LEP and the justification for making it (refer to **ANNEXURE 6.1B** for matters that must be addressed in a planning proposal).

The planning proposal can be prepared by Council, or by an external proponent for the proposed LEP. In either event, the Council is ultimately responsible for the planning proposal and must be satisfied that it is consistent with Council's adopted strategic framework and has been correctly prepared before forwarding it to the Minister for the next step in the process, being the gateway determination.

A gateway determination is issued by the Minister for Planning and specifies whether a planning proposal is to proceed and, if so, in what circumstances. The gateway determination is a 'checkpoint' for planning proposals before significant resources are committed to carrying out technical studies and investigations. The gateway determination will indicate the following:

- whether the planning proposal should proceed;
- whether the planning proposal should be resubmitted (including studies required);
- community and state agency consultation required; and
- whether a public hearing is to be held into the matter.

At the conclusion of the public exhibition period, the Council must consider any submission/s made in respect of any planning proposal and determine whether to proceed or discontinue the proposal.

The final step towards implementing a planning proposal is to submit the proposal to the Department of Planning for drafting of the legal instrument by Parliamentary Counsel.

After completion of the community/agency consultation and after the legal instrument has been drafted, the Minister for Planning may make a LEP. If the Minister for Planning considers it appropriate, the proposal/s submitted by Council can be varied (as was the case with TRLEP 2010). The Minister can also decide not to make a proposed LEP, or to defer the inclusion of a matter in a proposed LEP. Once a decision is made to make a LEP, the decision is given effect by publishing the LEP (including any maps) on the NSW Legislation website.

It is important to note that LEPs come in many different forms and in differing degrees of complexity. In this regard, the Department of Planning has set timeframe 'benchmarks' for the following types of LEPs:

- Major land release - 6-12 months
- Minor spot rezonings - 3 months

Planning Proposal Fees

Clause 11 of the EPA Regulation permits Councils to recover costs associated with processing a planning proposal. To assist in determining an appropriate fee structure, the fees and charges of other councils were investigated and compared and range from \$3202 to \$36000 depending on the size of the proposal. Based on the review of these fees, it is recommended that council adopt a staged fee structure as this more accurately reflects the staged process outlined in the legislation and does not involve significant up-front cost to a proponent, particularly as there is no certainty that the proposal will be supported by the gateway determination or the Minister. In this regard, the following two types of fees have been incorporated in the draft 2011/2014 Management Plan for public feedback/comment:

Minor LEP (No Significant Increase in the Developable Capacity of the Land)

- | | |
|--|--------|
| (a) Stage 1 – (Lodgement) | \$1500 |
| (b) Stage 2 – Submission to the LEP Gateway Panel for determination | \$3500 |
| (c) Stage 3 – Exhibition of the planning proposal with any amendments by the Minister and accompanied by any strategies required | \$2000 |

Total (overall) Fee if proposal is published as an amendment to TRLEP 2010.	\$7000
Other LEPs (Major Land Releases etc)	
(a) Stage 1 – (Lodgement)	\$3500
(b) Stage 2 – Submission to the LEP Gateway Panel for determination	\$7500
	+ \$115/hr (beyond 60 hrs)
(c) Stage 3 – Exhibition of the planning proposal with any amendments by the Minister and accompanied by any strategies required	\$5500
	+ \$115/hr (beyond 40 hrs)
Total (overall) Fee if proposal is published as an amendment to TRLEP 2010.	\$16,500

Prioritisation of Planning Proposals

The complexity of preparing a new planning proposal/LEP amendment will vary depending on the circumstances.

It should be noted that there is likely to be continual external pressure on Council to act on public requests for changes to the TRLEP 2010. Council is fortunate that it has a strategic framework in place to consider and evaluate such requests. Adoption of the Tamworth Regional Development Strategy in 2008 has provided a very clear direction for future landuse decisions within the Region. The difficulty will be servicing a significant number of planning proposals without impacting on current projects/operations. It is therefore considered necessary to prioritise proposals to ensure that those providing the greatest public benefit are given preference over those serving individual interest or of limited benefit to the Tamworth Regional community. Whilst Council currently does not have any fixed or defined criteria for prioritising planning proposals, it is suggested that these planning proposals which achieve the following outcomes should be given the highest priority:

- Significant employment generating development;
- Education, medical and/or community facilities and services;
- Residential and/or retail development identified in accordance with and adopted by Council or State Government Agency;
- Improving efficiency or viability of agriculture;
- Reducing an identified conflict between incompatible land uses;
- Improving tourism opportunities;
- Rectifying anomalies in TRLEP 2010; and
- Improving opportunities for more affordable housing.

It should be emphasised that planning proposals involving individual 'dwelling permissibility' issues will be given a lower priority than the above types of planning proposals.

A set of Guidelines will be prepared for external applicants to outline the processes, fees and prioritisation aspects that need to be fully considered prior to lodging a planning proposal.

(a) Policy Implications

Nil.

(b) Financial Implications

It is expected that the cost of resourcing the preparation and finalisation of externally generated planning proposals will be offset to some degree by the proposed introduction of the proposed fee structure in the draft 2011/2014 Management Plan.

(c) Legal Implications

The published TRLEP 2010 provides the legal framework to guide development in the Region for at least the next 5 years. The process for amending this legal framework is via a planning proposal.

(d) Community Consultation

Community consultation will be held in relation to each planning proposal that is supported by Council (as advised by the Gateway Panel).

6.2 PLANNING PROPOSAL TO ALLOW A RANGE OF ADDITIONAL USES TO SUPPORT A FOOD PROCESSING CLUSTER TO THE WEST OF THE GLEN ARTNEY INDUSTRIAL AREA - FILE NO SF5221

DIRECTORATE: ENVIRONMENT AND PLANNING

AUTHOR: Andrew Spicer, Strategic Planner (Section 94)

CONFIDENTIAL ENCLOSURE ENCLOSED

RECOMMENDATION

That Council resolve to forward the enclosed "Glen Artney West" Planning Proposal to the Minister for Planning in order to receive a gateway determination in accordance with Section 56 of the Environmental Planning and Assessment Act 1979.

SUMMARY

This report seeks Council's endorsement of a Planning Proposal to amend the *Tamworth Regional Local Environmental Plan (TRLEP) 2010* as it relates to nine (9) lots immediately to the north-west of the Glen Artney Industrial Estate (see Locality Map below). The aim is to allow for the development and expansion of a 'food processing cluster' in this locality. The Proposal also provides for the future expansion of a public cemetery adjacent to the Lincoln Grove Cemetery and crematorium.

- (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 147(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

Public Submissions

RECOMMENDATION

That pursuant to Section 80 of the Environmental Planning and Assessment Act, 1979, Development Application No.0235/2011 for thirty-one (31) advertising structures on the exterior of the building occupied by the "Chemist Warehouse" on Lot 130 in DP 1044562 at 130-138 Peel Street, Tamworth, be determined by refusal for the following reasons:

- (i) the proposal is contrary to the provisions of State Environmental Planning Policy 64 – Advertising and Signage, as it does not achieve compliance with the following:*
 - a) Clause 3 Aims, objectives etc.*
 - b) Clause 8 Granting of consent to signage.*
 - c) Clause 21 Roof or sky advertisements.*
 - d) Clause 22 Wall advertisements.*
 - e) The Schedule 1 Assessment criteria.*
- (ii) the proposal does not comply with the following provisions of Tamworth Local Environmental Plan 1996 and will result in a detrimental impact on the subject heritage item:*
 - Clause 44 What factors will the Council take into consideration when assessing an application to develop a heritage item?*
- (iii) the proposal does not comply with the following provisions of Tamworth Development Control Plan No.3 - Outdoor Advertising Guidelines:*
 - Section 10 Design Guidelines.*
 - Section 11 Colour/Paint Schemes.*

- **Section 12 What Special Requirements Relate to Advertisements on Historic Buildings?**

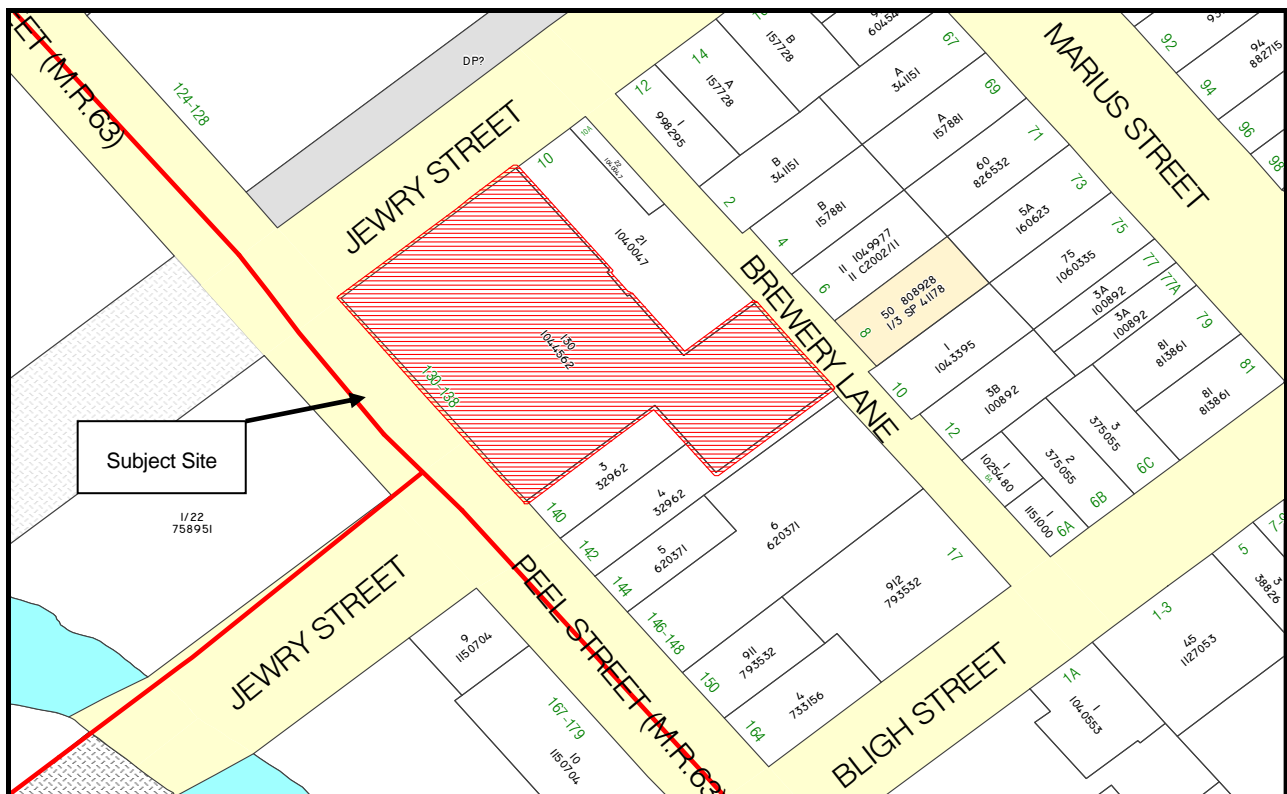
(iv) *insufficient information has been submitted with respect to:*

- *The thickness (protrusion from the wall) of the proposed wall advertisements.*
- *Illumination of the advertising structures.*
- *Method of attachment of the proposed structures to the external façade of the building.*

SUMMARY

The following report provides a planning assessment of the proposal to install 31 advertising structures on the external walls, roof and windows of the existing building occupied by the “Chemist Warehouse”, at 130-138 Peel Street, Tamworth.

The application has been referred to Council for determination as the recommendation of this report is for refusal of consent.



Council is also advised that the application is now the subject of a Class 1 Appeal to the NSW Land and Environment Court against the “deemed refusal” of the application.

COMMENTARY

Background

A summary of events leading up to lodgement of the subject DA is provided in the table below:

Date	Event
11 May 2010	DA 492/2010 was approved by Council for the use of the building as "Chemist Warehouse". The approval did not relate to any external signage.
22 April 2010	A development application was lodged with Council for 31 advertisements associated with the "Chemist Warehouse". The application was rejected on the grounds that it did not provide the minimum information required under Clause 50 of the Environmental Planning and Assessment Regulations 2000 (EPAR) to permit the application to commence assessment. In its correspondence, Council strongly encouraged the applicant to revise the proposal in consultation with an appropriately qualified consultant/architect with expertise in heritage matters.
15 June 2010	An inspection of the subject site was undertaken. The site inspection revealed that an "advertisement" (business identification sign "Chemist Warehouse") was placed on the front façade of the building being occupied by the Chemist Warehouse without prior consent.
13 July 2010	A Notice of Intention to Issue an Order under the Environmental Planning and Assessment Act, 1979 (the Act) was issued to the owner of the site pursuant to Clause 121H of the Act. The sign was subsequently removed.
16 July 2010	Council received a development application (DA) for 31 advertisements associated with the "Chemist Warehouse". This application was returned as it was unclear whether owner's consent had been granted for lodgement of the application, unclear as to who the applicant was, and incorrect fees paid. Again, the applicant was strongly encouraged to review the proposal in consultation with an appropriately qualified heritage consultant/planner.
17 August 2010	A Draft Signage Concept Plan, being the same plans submitted with the DAs, was referred to Council's Heritage Advisor for comment.
23 September 2010	The applicant requested that Council consider the installation of temporary signage on the front façade of the building.
5 October 2010	<p>In response to comments received from Clare James, Council provided written advice to the applicant regarding a preferred signage scheme for the building.</p> <p>Council provided written advice to the applicant that the installation of temporary signage on the front façade of the building was acceptable subject to a timeframe for lodgement of an application for the permanent signage.</p>
November 2010	Temporary signage installed.
6 December 2010	DA0235/2011, the subject of this assessment, lodged with Council (the signage details are unchanged from previous applications).

The Proposed Development

The proposal involves the installation of 31 advertising structures on the exterior walls, roof and windows of the existing building as shown on the plans located in **ANNEXURE 6.3A** being:

- 2 illuminated roof advertisement structures
- 12 wall advertisement structures
- 17 business identification signs (3 of which are illuminated)

The proposal is the same as the Development Applications that were submitted to Council in April and July 2010. As discussed above, both these applications were returned to the Applicant.

Site context

The subject site comprises retail premises at 130-138 Peel Street, North Tamworth, being Lot 130 in DP 1044562. Tenancies 2 and 3 contain an existing "Chemist Warehouse". Tenancies 1 and 2 have been internally modified to operate as a single tenancy.

The property at 130-138 Peel Street has a site area of approximately 7652m² and has frontage to Peel Street (to the west), Jewry Street (to the north) and Brewery lane (to the west). Vehicular access to the site is provided from the Peel Street and Brewery Lane frontages. The site also contains a separate detached building, occupied by "Spotlight" and an associated shared car parking area.

The building containing the "Chemist Warehouse" is a single storey masonry building which is identified as a "heritage item" under Tamworth Local Environmental Plan 1996. This building is identified as being the former Britten's Brewery, dating to 1879 and as being a former industrial structure.

STATUTORY FRAMEWORK

Environmental Planning Instruments

State Environmental Planning Policy No.64 – Advertising and Signage (SEPP 64)

In accordance with the definitions contained within SEPP 64, the proposed advertising structures are defined as being building identification signs, wall advertising structures and roof advertising structures.

Clause 8 of SEPP 64 requires Council to be satisfied that the proposed structures are consistent with the aims and objectives as specified in Clause 3 of the SEPP.

Clause 3: Aims and Objectives

Clause 3 specifies the following aims and objectives:

"(a) to ensure that signage (including advertising):

- (i) is compatible with the desired amenity and visual character of an area, and*
- (ii) provides effective communication in suitable locations, and*
- (iii) is of high quality design and finish, and*

(b) to regulate signage (but not content) under Part 4 of the Act, and

(c) to provide time-limited consents for the display of certain advertisements, and

- (d) to regulate the display of advertisements in transport corridors, and
- (e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.”

Response:

The subject site is identified as a heritage item under the provisions of Tamworth Local Environmental Plan 1996 (TLEP 1996). The site is also within the vicinity of the following heritage items: Joe Maguires Hotel, Tamworth Community College, the “Square Man Inn” (located opposite the site) and the group of shops located on the north east corner of the intersection of Peel and Bligh Street.

When assessing the impact of the proposed structures on the visual character and desired amenity of the area, consideration must be given to the number (31) and colour (red, yellow and blue) of the proposed advertising structures. In this regard, the existing visual character of the area does not reflect proliferations of advertising signage concentrated upon a single building, in a colour scheme which is contrasting to, not complementary to the colour scheme of the existing building or the buildings within the vicinity of the site. In this regard, it is not considered that the proposed number of structures and colour of the structures is compatible with the visual character and desired amenity of the area.

As the subject site is located at the intersection of Jewry and Peel Street, and the subject building has a nil boundary setback to Peel Street, the building is visually prominent. The proposal provides 13 advertising structures which will be visible from Peel Street and 10 of the 13 structures are a building identification sign, containing the words “Discount Chemist” or “Chemist Warehouse”. The provision of 10 structures on one building, which essentially communicate the same message to the public, is excessive and is not consistent with the desired amenity or visual character of the area, nor is it considered that the number of structures represents effective communication.

Therefore, it is not considered that the proposal is consistent with the provisions of Clause 3(a) (i), (ii) and (iii) of SEPP 64.

Part 3 of SEPP 64

Part 3 of SEPP 64 applies to the proposed roof and wall advertising structures and Clause 13 requires Council to complete an assessment with respect to the assessment criteria contained within Schedule 1 of the SEPP.

The following assessment is provided with respect to Schedule 1:

1. Character of the area

- *Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*
- *Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

Response: For the reasons previously identified in this report, it is not considered that the proposed advertising structures are consistent with or complementary to the existing or future character of the area.

2. Special areas

- *Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*

Response: The site is a heritage item and is located within the vicinity of several other heritage buildings. As the proposed colour of the proposed structures is not complimentary to the existing building and given the number of structures proposed, concern is raised with respect to the visual amenity impact on the subject heritage item and the other heritage items in the vicinity.

3. Views and vistas

- *Does the proposal obscure or compromise important views?*
- *Does the proposal dominate the skyline and reduce the quality of vistas?*
- *Does the proposal respect the viewing rights of other advertisers?*

Response: The subject building is located on the corner of an intersection which is considered to be a “gateway” to both the Tamworth CBD and the Taminda Industrial area. The number of signs, which will be visible from this intersection, combined with their colour will reduce views of the existing building (a heritage item), which will have a negative impact on the streetscape view, setting and context of the area, which contains a number of heritage items and low scale mixed development.

4. Streetscape, setting or landscape

- *Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*
- *Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*
- *Does the proposal reduce clutter by rationalising and simplifying existing advertising?*
- *Does the proposal screen unsightliness?*
- *Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*
- *Does the proposal require ongoing vegetation management?*

Response: The proposal incorporates 4 advertising structures on the front façade of the building and 10 structures along the side (northern) elevation of the building. As stated in the comments from Council’s Heritage Advisor, the amount of signage is excessive to all elevations and will result in the appearance of the building dominated by signage which conflicts with maintaining the prominence and contributory values of the building’s architectural features. This is particularly relevant to the Peel Street streetscape and is therefore considered to be of an inappropriate scale, proportion and form. Further, it is considered that the proposal detracts from the visual interest of the building and results in a “cluttering” effect of the advertisements on the front façade. It is not considered that the proposal demonstrates innovation and imagination given the advertisements are not considered to be compatible with the existing colours of the building nor promote the architectural features of the building.

5. Site and building

- *Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*
- *Does the proposal respect important features of the site or building, or both?*
- *Does the proposal show innovation and imagination in its relationship to the site or building, or both?*

Response: As discussed, the number and design of the proposed structures is not compatible with the scale and proportion of the existing building. The excessive number and design of the structures is not complementary to the architectural form and features of the building.

6. Associated devices and logos with advertisements and advertising structures

- *Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*

Response: Not applicable.

7. Illumination

- *Would illumination result in unacceptable glare?*
- *Would illumination affect safety for pedestrians, vehicles or aircraft?*
- *Would illumination detract from the amenity of any residence or other form of accommodation?*
- *Can the intensity of the illumination be adjusted, if necessary?*
- *Is the illumination subject to a curfew?*

Response: Five (5) of the proposed advertising structures are illuminated. The applicant has advised that the structures will be light boxes and that little light spill outside of the panel is generated and that the illumination will not be subject to a curfew and the illumination intensity of the signs can not be adjusted.

It should be noted that the cumulative impact of light spill has not been addressed by the Applicant.

Given that the subject building is a heritage item, that the existing use operates within the standard hours of business premises and the provision of illuminated advertising structures is not a characteristic of the subject building or locale, the provision of illumination is not considered to be justified or warranted. Council's Heritage Advisor is also of the view that the structures should not be illuminated due to the potential negative impact on the heritage significance and value of the building.

8. Safety

- *Would the proposal reduce the safety for any public road?*
- *Would the proposal reduce the safety for pedestrians or bicyclists?*

- *Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*

Response: The submitted Statement of Environmental Effects states that the proposed signs will not reduce the safety of the public road for the following reasons:

- Each sign does not obscure or interfere with any road or traffic sign;
- The siting of the signs, their design and orientation, form and colour will not distract drivers view in and along the public domain;
- Only four (4) signs will be clearly visible from the street. Oblique views of those signs on the side elevation may be seen by passing motorists;
- The projecting wall sign on that part of the building that faces the street is illuminated but well set back from Peel Street;
- No signs are flood lit or block views of RTA signs or messages; and
- The signs do not contain variable messages, changing of colours, moving images or any material that could be mistaken to be a traffic directional or advisory sign that may be prejudicial to drivers.

The Applicant states that each of the signs is located well away from the pedestrians and as such sightliness from public areas will not be affected. While the above points are acknowledged, it is considered that the number and size of the signs on the front façade of the building have the potential to contribute towards driver distraction at the intersection of Peel and Jewry Street.

Clause 21 Roof or Sky Advertisements

The proposal provides 2 roof advertisements (1 on the side (northern) elevation and 1 on the rear elevation).

Clause 21 states that Council may grant consent to a roof advertisement only if Council is satisfied that:

- The advertisement replaces one or more existing roof advertisements and the advertisement improves the visual amenity of the locality; or
- The advertisement improves the finish and appearance of the building and the streetscape, and
- The advertisement is no higher than the highest point of any part of the building that is above the building parapet and is no wider than any such part; and
- A development control plan is in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct and the advertisement is consistent with the development control plan.

Response: As the proposed roof advertisements do not replace existing roof advertisements and the required development control plan is not in force, Council is unable to grant consent to the proposed roof advertisements.

Clause 22 Wall Advertisements

Clause 22 permits the provision of:

- One (1) wall advertisement only per building elevation and the wall advertisement must be integrated with the design of the building on which it is to be displayed; and
- The wall advertisement must not protrude more than 300mm from the wall; and
- The wall advertisement must not extend over any window or other opening; and
- The provision of a wall advertisement structure on each build elevation if a building identification sign is not displayed on the building elevation.

Response: The proposal does not comply with the requirements of Clause 22 as:

- More than 1 wall advertisement is proposed per building elevation;
- No details have been provided with respect to whether the structures protrude from the wall.
- Proposed wall advertisements extend over existing window and doors openings on the side (northern) elevation; and
- A building identification sign is proposed on each of the front, side and rear building elevations. Therefore, wall advertisements are not permitted on these elevations.

For the reasons discussed above, the proposal does not comply with the provisions of SEPP 64 and the proposal is not supported on this basis.

Tamworth Regional Local Environmental Plan 2010 (TRLEP 2010)

Clause 1.8A of the TRLEP 2010 provides Savings Provisions for Development Applications lodged with Council prior to commencement of the Plan (ie 21 January 2011). Consequently, the application is being assessed in accordance with the provisions of TLEP 1996.

Tamworth Local Environmental Plan 1996 (TLEP 1996)

The application has been assessed against the provisions of TLEP 1996. The subject site is zoned 3 (a) Business and “advertisements” are permissible subject to consent.

Clause 39 What factors will the Council take into consideration when assessing an application for development fronting a classified road?

When determining an application for consent to carry out development on land within any zone fronting a classified road, the Council must consider:

- a) whether there is a better alternative means of access to the land from a road other than the classified road,*
- b) whether the safety and efficiency of the classified road will be adversely affected by:*
 - (i) the design of the access to the site of the proposed development,*
 - (ii) the emission of smoke or dust from the proposed development, and*

- Whilst it is acknowledged that signage is intended to convey a message and identify the use of the building, such signage can be designed in such a manner to minimise obtrusiveness and be compatible with the building's architectural features. As discussed previously in this report, this was reiterated in Council's correspondence dated 5 October 2010 which clearly identified certain types of advertisements which are considered satisfactory.
- The SOHI states that in essence, it is the architectural qualities of the street façade which are most strident. While it is acknowledged that works to the north (elevation B) and west (elevation C) have resulted in the building being substantially altered, as stated by Council's Heritage Advisor, the proposed signage on the front façade is excessive and will result in the appearance of the building being dominated by signage which conflicts with maintaining the prominence and contributory values of the building. One building identification sign per elevation is considered acceptable to adequately identify the use of the building. The four (4) proposed on the front façade are excessive and dominating. Further, the signage on the northern and western façade is also considered excessive and the cumulative impact results in a "cluttering" of unnecessary information.
- The SOHI identifies the adjoining "Spotlight" building signage, as being an example of signs located within close proximity which are "intrusive" and use a "variety of colour, tint, hue and chroma". It is acknowledged that the "Spotlight" building (located on the subject development site) uses blue and red colours in signage. However, such signage is considered to be in scale with the building, is limited to one sign on the front (Peel Street) elevation and is not located on a building identified as having heritage significance. Further, as noted by Council's Heritage Advisor, the recently opened Community College at Munro's Mill, (opposite the subject site) demonstrates that signage can be designed in such a manner to complement the building.
- The SOHI identifies that the "Royal Standard Bottling Department" relief lettering is ostensibly the signage that relates to the character of the building. It further states that the character of the area is considerably diverse and includes signage relating variously to identification, explanation and indication and suggests that it is within this context that the relative impact of the signage is to be considered. As suggested in Council's correspondence to the applicant on 5 October 2010, it was recommended that the signage be limited to the use of the blue and red colour. It is understood that corporate signage has been modified for "Chemist Warehouse" signs in the Leichardt Council area in response to planning requirements. While the character of signage in the area may be considered diverse, the proposed signage should still be compatible and sympathetic with the heritage building on which it is to be installed.
- The SOHI states that the proposed signage is relatively diminutive in size compared with the original "Royal Standard Bottling Department" relief lettering signage which appeared to extend for a considerable length of the frieze to the front façade of the building. The SOHI states that this is compensated to some extent by the use of graphics and relative brightness. It is suggested that the front facade wall signage relates to the engaged piers of the building which reinforces the composition of the façade. Again, it is considered that the cumulative impact of the three (3) signs, with their bright colours and font lettering as proposed, will result in the dominance of the signage rather than serving to highlight the architectural features of the building, such as the engaged piers, the semi-circular lights over the windows and decorative cornices.
- As previously discussed, in its correspondence dated 5 October 2010, Council expressed concerns in response to the submitted proposal and identified alternative options for consideration by the applicant. With regard to the northern side (elevation B), the number of signs proposed is thirteen (13). The SOHI states that the number of signs is required to compete with the stridency of the Spotlight signage and necessary in the context of vehicles parked adjacent to the buildings. Further that vehicles such as SUVs and 4WDs are of a height and bulk as to obscure signage below awning level and above awning sign is necessary in this event.

The SOHI also states that given the length of the wall and the “driverly” context of the location, combined with the comparatively recent construction of this elevation, the recommendation of limiting signage to only one (1) business identification sign, one (1) showing the advertising of product and that the above awning sign is overly constraining. However, the number of signs proposed results in a cluttering and disorderly appearance of signs which dominate this elevation.

- As above, the thirteen (13) rear elevation signs proposed results in a dominance, cluttering and disorderly impact on the rear of the building. In correspondence dated 5 October 2010, Council suggested that the use of the above awning sign was not acceptable and that signage be limited to the use of one (1) business identification sign and one (1) showing the advertising of product. It is stated in the SOHI that given this is the most removed elevation from the primary presentation of the building, the building should be considered in the context of a car park. As such, the SOHI suggests that the proposed signage is necessary to indicate the use of the place given the predominantly vehicle based mode of travel of viewers of the building. On this basis, as vehicles have already entered the site, one business identification sign on each of the façade is adequate to identify the use of the building, as well as one product advertisement.
- The SOHI states that with the existing deep red/brown and stone like colour of the building, the most compatible colour of the four (4) colours used in the Chemist Warehouse graphics (ie yellow, white, blue, red) is yellow. In response to Council’s Heritage Advisor’s recommendation that the signs not include yellow, the SOHI states that the “arbitrary and seemingly whimsical exclusion of colour that is a vital component of the corporate colours of the firm conducting activities in such a building is simply not warranted by the potential impacts”. While it is acknowledged that colours compatible with the existing building colour may be subjective, based on Council’s Heritage Advisor’s advice as well as in the writer’s professional planning opinion, the plans clearly demonstrate the use of bright colours results in the signs appearing as an after thought rather than integrating with the building’s form and colours.

While the proposal is not considered to constitute a danger to the users or occupiers of that item or to the public, based on the advice received from Council’s Heritage Advisor, and the above comments, it is considered that the proposal does not incorporate adequate measures to conserve heritage items. Consequently, the proposal is not in compliance with Clause 44 of TLEP 1996.

Development Control Plan (DCP) No. 3 - Outdoor Advertising Guidelines

The following design guidelines have been considered in the assessment of the proposal:

Section 10 Design Guidelines

10.1 Location

The proposed advertisements relate to development which is located on the subject site.

10.2 Size and Number

The submitted SEE states that the amount of signage proposed is a consequence of the main customer entry of the subject Tenancy being located in the centre of the building, and consequently, being setback from Peel Street. The Applicant contends that the average person driving or even walking along Peel Street would not realise that the building is being used for the purposes of a chemist.

As previously discussed, the number and size of advertisement structures proposed to the front, side and rear façades are considered excessive and will detract from the appearance of the façade of the building. The proposed number of structures is also considered to be not relative to the size of the building or comparable to the provision of advertising structures on buildings within the locale.

10.3 Content

Advertisements contain a mix of lettering and graphic symbols.

10.4 Orderliness

It is considered that the advertisements appear to be an “add-on” or an “afterthought” given the number of signs, the repetitive information and various dimensions of each advertisement.

10.5 Fit

The proposed advertisements are not considered to “fit” the building given the cumulative impact arising from the number, size and location of advertisements on each of the elevations.

10.6 Shape

Whilst the shape of the advertisements are generally consistent, the dimensions vary contributing to the “add-on” or “afterthought” effect of the proposal.

10.7 Lettering and layout

The advertisements content consists of letters/ names/ logo of the business occupying the complex, directional information as well as the advertising of product to be sold.

Section 11 Colour/ Paint Schemes

Advice from Council’s Heritage Advisor states:

“The colouring of the Building Identification Signs themselves is also of concern. It is suggested that they be limited to the use of the blue and red colour only – not the yellow border – this should be acceptable with this logo being used in documentation without the yellow colour.”

As has been demonstrated in the recently opened Community College at Munro’s Mill opposite, signage should complement the building. As proposed the signage applies bright primary colours which do not integrate it with the building’s form and colouring.”

Section 12 What special requirements relate to advertisements on historic buildings?

- 12.1 *Early commercial buildings were often designed to incorporate advertising and, where possible, advertisements should be located in the position provided. Care should be taken to ensure that advertisements do not obscure architectural features of the building.*

Response: It is considered that advertisements on the front façade of the building dominate, impacting upon the architectural features of the building. It is noted that the original building identification was relief lettering located within the frieze of the front façade of the building.

- 12.2 *Dark or muted colours are preferred eg maroon, dark green, terracotta, brown, charcoal; highlighted with creams, pinks, ochres or earth tones. Use primary colours only sparingly.*

Response: The proposed colours are bright primary colours.

- 12.3 *Traditional Sign materials such as painted wood and flat metal panels should be used rather than materials introduced after 1900, like plastic, three dimensional or bas-relief metal, Styrofoam and similar moulded synthetic materials, reflective and opalescent paints. Lighting should be recessed or concealed spotlighting.*

Response: The proposed advertisements consist of weathertex, window print and internally illuminated light boxes.

ASSESSMENT

Context and setting

Access, transport and traffic

As previously discussed, existing access arrangements will not be altered by the proposal. However, the number, size, colour and content of advertisements located on the front façade have the potential to create distraction to drivers at the Peel and Jewry Street roundabout.

Public domain

The proposal has the potential to generate a negative impact on the Peel Street streetscape given the number, size, colour and content of the advertisements which compromise the heritage significance of the building and the streetscape.

Cumulative impacts

It is considered that the proposal has a negative cumulative impact on the locality given the excessive number of signs on each of the facades.

Heritage

The likely impacts of the proposal on the heritage significance of the "Chemist Warehouse" building have been discussed in preceding sections of this report.

(a) Policy Implications

Nil.

(b) Financial Implications

Costs associated with the NSW Land and Environment Court Appeal.

(c) Legal Implications

The application is currently the subject of a Class 1 Appeal to the NSW Land and Environment Court. The matter is listed for a first call-over on Monday 4 April 2011.

(d) Community Consultation

In accordance with the provisions of Tamworth DCP 20 - Advertising and Notification of Development Applications, advertising or notification of the proposal is not required.

CONCLUSION

The proposal does not comply with the provisions of SEPP 64, TLEP 1996 and TDCP 3. The proposed number of advertising structures is considered excessive and will result in a negative impact on the character, appearance and heritage significance of the subject building, which is identified as a heritage item. The potential impacts on the heritage item will also have a negative impact on the existing character and setting of the locale. For these reasons, it is recommended that Development Application No.0235/2011 be refused.

6.4 PLANNING PROPOSAL TO PERMIT WITH CONSENT DWELLINGS AND SECONDARY DWELLINGS IN THE SP3 - TOURIST ZONE - FILE NO SF 5190

DIRECTORATE: ENVIRONMENT AND PLANNING

AUTHOR: Megan Purkiss, Strategic Planner

CONFIDENTIAL ENCLOSURE ENCLOSED

RECOMMENDATION

That Council resolve to forward the Planning Proposal to permit with consent Dwellings and Secondary Dwellings in the SP3 - Tourist Zone to the Minister for Planning in order to receive a gateway determination in accordance with Section 56 of the Environmental Planning and Assessment Act 1979.

SUMMARY

This report seeks Council's consideration of a Planning Proposal to amend the Tamworth Regional Local Environmental Plan (TRLEP) 2010 as it relates to Lot 2 DP 1092556, Goonoo Goonoo Road, Tamworth. The objective of the Planning Proposal is to permit 'dwellings' and 'secondary dwellings' with consent in the SP3 - Tourist Zone to allow for permanent residential accommodation as a component of the "Longyard Trails" development proposal – refer **Confidential Enclosure 6.4**.

Background

During the exhibition of the Tamworth Regional Development Strategy (TRDS) 2008, a submission was lodged by consultants Inspire Urban Design + Planning Pty Ltd on behalf of Jocep Enterprises Pty Ltd supporting a proposed equine related industry area in close proximity to AELEC.

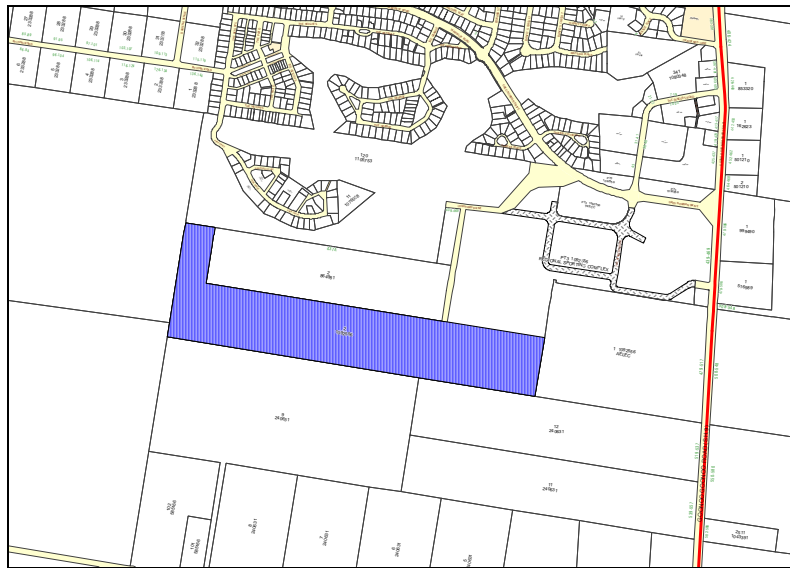
A submission was then made to Council by the consultants during the exhibition process for the draft TRLEP 2009 to rezone Lot 2 DP 1092556 to a 'tourist and visitor zone' due to its proximity to the Australian Equine and Livestock Events Centre (AELEC). The recommendation to rezone the lot to SP3 – Tourist was supported by Council including the development of 'dwellings' and 'secondary dwellings' within the zone.

The TRLEP 2010 was published on the 21 January 2011 and included changes made by the Minister for Planning prior to the publishing of the plan without consultation with Council. A significant change was the removal of 'dwellings' and 'secondary dwellings' from the Land Use Table in the SP3 – Tourist Zone.

COMMENTARY

Due to the changes made to the TRLEP 2010 and the exclusion of 'dwellings' and 'secondary dwellings' from the land use table, Inspire Urban Design + Planning Pty Ltd have lodged a Planning Proposal on behalf of Jocep Enterprises Pty Ltd to amend TRLEP2010 and permit with consent 'dwellings' and 'secondary dwellings' in the SP3 – Tourist zone.

The 'Longyard Trails' proposed development is a concept identified for Lot 2 DP 1092556, Goonoo Goonoo Road and consists of an equine related residential accommodation cluster comprising a community title subdivision of 4000 square metre lots to be linked to bridle paths and connected with AELEC. In addition, tourist and visitor accommodation has been proposed in the form of resort accommodation.



A separate body of work known as the South Tamworth Rural Lands Master Plan is currently being undertaken. The 'Longyard Trails' development for Lot 2 DP 1092556 has not been identified within this study area as it has been actively master planned since the adoption of the Tamworth Regional Development Strategy (TRDS) 2008.

The TRLEP 2010 identifies two precincts as SP3 – Tourist Zone. These include lands in Taminda on the corner of Jewry Street and Britten Road identified as the future site of the Regional Racing Precinct and the events and sporting precinct in South Tamworth where AELEC, Tamworth Regional Entertainment and Conference Centre (TRECC), the Sports Dome and other major sporting facilities are located.

The land identified for the 'Longyard Trails' proposed development is the only allotment within the SP3 – Tourist Zone that has been allocated a minimum lot size of 4,000 square metres. Development for tourist and visitor accommodation is permitted with consent within the SP3 – Tourist zone. Residential accommodation is not permitted within the zone consequently affecting the community title development component of the proposal. As a result, the land may be subdivided, although dwellings are not permitted to be erected on the lots. The proposed development relies on the permissibility of dwellings to ensure the economic viability of the community title component of the development.

The Planning Proposal submitted by the consultant proposes 'dwellings' and 'secondary dwellings' be included in the SP3 – Tourist Zone Land Use Table. The Planning Proposal also provides an alternative scenario whereby Lot 2 DP 1092556 could be included in Schedule 1 – Additional Permitted Uses of the TRLEP 2010 to allow for the development of 'dwellings' and 'secondary dwellings' on this particular lot.

It should be noted, the layout of the "Longyard Trails" subdivision concept will require further discussion and refinement as part of Site Specific Development Controls for this area providing the Planning Proposal is supported by the Minister for Planning. It is emphasised that Council is not being asked to endorse or approve this particular layout at this stage and additional consultation with the developer will be necessary before the layout is finalised.

The Planning Proposal has been written in accordance with the Department of Planning's 'A Guide to preparing Local Environmental Plans' and 'A Guide to preparing Planning Proposals' as a requirement for the preparation of the Gateway determination by the Department. The Planning Proposal also indicates that it is consistent with applicable State Environmental Planning Policies and Section 117 Directions.

(a) Policy Implications

If supported, the Planning Proposal will result in the amendment of the TRLEP 2010 Land Use Table for the SP3 - Tourist Zone.

(b) Financial Implications

Nil.

(c) Legal Implications

The Planning Proposal, if endorsed by the Minister for Planning, will constitute a formal amendment to the TRLEP 2010.

(d) Community Consultation

The zoning of Lot 2 DP 1092556 and the permissibility of tourist and visitor accommodation and dwellings in the SP3 – Tourist Zone was the subject of extensive community consultation as component of the preparation and exhibition of the TRLEP 2010. It is anticipated that the gateway panel decision would identify whether additional community consultation is required for the current Planning Proposal.

CONCLUSION

This Planning Proposal is necessary due to the Minister's decision to amend the Draft TREL 2009 without consultation prior to publication.

The Planning Proposal is the first step in the 'Gateway' plan-making process and explains the effect of and justification for the plan. The Minister will provide a determination regarding the procedure and whether further studies are required and resources allocated to the preparation of the plan. Therefore, it is recommended that the Planning Proposal be referred to the Department of Planning for a Gateway determination.

6.5 PROPOSED DWELLING ON LOT 2 DP 599998 NEVER NEVER ROAD, HALLS CREEK - FILE No DA0239/2011

DIRECTORATE: ENVIRONMENT AND PLANNING

AUTHOR: Abbey Baldwin, Building Inspector

ANNEXURE ATTACHED

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 147(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 147(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 in relation to Development Application No. DA0239/2011 for a Dwelling on Lot 2 DP 599998 Never Never Road, Halls Creek, the development be approved subject to the following conditions of consent:

Prior to Work Commencing

- 1) *An Approval for Water Supply Works issued by the NSW Government Office of Water (or confirmation that approval is not required) is to be obtained for the dam located between Never Never Road and the Dwelling Site. A copy of the approval or documentation is to be submitted to Council prior to the commencement of works.*
- 2) *Erosion and sediment controls for the construction works are to be installed and authorised before any site works begin, and be maintained effectively for the duration of the construction works.*
- 3) *Building work that involves residential building work (within the meaning of the Home Building Act 1989) must not be carried out unless the principal certifying authority for the development to which the work relates has been informed in writing of the licensee's name and contractor licence number, and is satisfied that the licensee has complied with the requirements of Part 6 of that Act.*
- 4) *A licensed plumber and/or drainer shall obtain a permit prior to the commencement of work for sanitary plumbing and drainage.*
- 5) *Pursuant to s.81A of the Act, the following matters must be satisfied prior to the commencement of work:*
 - (i) *obtain a construction certificate from either Council or an accredited certifier;*
 - (ii) *appoint a Principal Certifying Authority (and advise Council of the appointment, if it is not the Council); and*
 - (iii) *give at least 2 days notice to Council of the intention to commence work.*
- 6) *A sign is to be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out stating:*
 - (i) *unauthorised entry to the work site is prohibited;*
 - (ii) *the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;*
 - (iii) *the name, address and phone number of the PCA by the owner;*
 - (iv) *the sign is to be removed when the work has been completed; and*
 - (v) *this condition does not apply to building work carried on inside an existing building, or building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is carried out.*
- 7) *Toilet facilities are to be provided, prior to the commencement of work, 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. Facilities are to be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.*
 - (i) *Each toilet provided must be a standard flushing toilet, and must be connected to:*

- (a) a public sewer;
 - (b) if connection to a public sewer is not practicable, then the toilet is to be connected to an accredited sewage management facility approved by the council; and
 - (c) if connection to a public sewer or an accredited sewage management facility is not practicable, then connection to some other sewage management facility approved by the council is required.
- (ii) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

General

- 8) Pursuant to Section 97A(2) of the Environmental Planning & Assessment Regulation 2000, all the commitments listed in the relevant BASIX Certificate for the development shall be fulfilled at the milestones listed.
- 9) All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 10) 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 occupation of the premises to ensure compliance with the provisions of the Environmental Planning and Assessment Act, 1979.
- 11) 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.

Inspections

- 12) It is required that a Principal Certifying Authority (PCA) be appointed to undertake all critical stage inspections as prescribed under the Environmental Planning and Assessment Regulations, 2000. The owner may appoint either the Council or an accredited certifier to be the PCA.
- 13) As a consent authority under the Water Management Act 2000, the following inspections are required to be carried out by Council. Where Council is not the Principal Certifying Authority, an additional fee for each inspection will apply.
 - (i) underfloor drainage under hydrostatic test prior to covering;
 - (ii) hot and cold water plumbing under pressure test prior to covering;
 - (iii) sanitary drainage (under hydrostatic test) prior to backfilling trenches or covering;
 - (iv) the installation of the septic tank and any sullage trenches prior to backfilling or covering; and
 - (v) final inspection of all plumbing and drainage works.

During Construction

- 14) The drainage service is to be provided with at least one overflow gully - the top level of which shall not be less than 150mm below the floor level of the building and not less than 75mm above the finished ground level to provide for sewerage surcharge outside the building in case of a blockage in the sewer main.**
- 15) A site rubbish enclosure shall be provided on the site for the period of the proposed construction works.**
- 16) Smoke detectors are to be provided in accordance with the Building Code of Australia.**
- 17) All penetrations of frame work by hot and cold plumbing are to be adequately sealed or supported to ensure the potential for water hammer is reduced.**

Bushfire Control

- (i) asset Protection Zones; and**
 - (ii) the intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers while supporting or evacuating occupants. To achieve this, the following conditions shall apply.**
- 18) At the commencement of building works and in perpetuity the property around the building shall be managed as follows as outlined within Section 4.1.3 and Appendix 5 of 'Planning for Bushfire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.**
- (i) north for a distance of 15 metres as an inner protection area and 15 metres as an outer protection area;**
 - (ii) east for a distance of 15 metres as an inner protection area and 5 metres as an outer protection area;**
 - (iii) south for a distance of 10 metres as an inner protection area and 10 metres as an outer protection area; and**
 - (iv) west for a distance of 15 metres as an inner protection area and 5 metres as an outer protection area.**

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply

- (i) a 65mm "stortz" outlet with a gate or ball valve shall be provided;**
- (ii) in recognition that no reticulated water supply exists, a 20,000 litre water supply shall be provided for fire fighting purposes;**

- (iii) above ground tanks are manufactured of concrete or metal and raised tanks are to have their stands protected. Plastic tanks shall not be used;*
- (iv) the gate or ball valve, pipes and tank penetration are adequate for full 50mm inner diameter water flow through the “stortz” fitting and are metal;*
- (v) all associated fittings to the tank shall be non-combustible;*
- (vi) a minimum 5hp or 3kW petrol or diesel powered pump shall be made available to the water supply;*
- (vii) an ‘SWS’ marker shall be obtained from the local NSW Rural Fire Service and positioned for ease of identification by brigade personnel and other users of the SWS. In this regard;*
 - (a) Markers must be fixed in a suitable location so as to be highly visible; and*
 - (b) Markers should be positioned adjacent to the most appropriate access for the static water supply.*
- (viii) gas cylinders kept close to the building shall have release valves directed away from the building. Connections to and from gas cylinders are to be metal. Polymer sheathed flexible gas supply lines to gas meters adjacent to building are not to be used.*

Access – Public Road

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply;

- 19) Public road access shall comply with Section 4.1.3(1) of ‘Planning for Bush Fire Protection 2006’:**
- (i) road(s) shall be all weather access roads;*
 - (ii) all roads should be through roads. Dead end roads are not recommended, but if unavoidable, dead end roads are not more than 200 metres in length, incorporate a 12 metre outer radius turning circle, are clearly signposted as dead end and direct traffic away from the hazard;*
 - (iii) curves of roads (other than perimeter roads) are a minimum inner radius of 6 metres;*
 - (iv) maximum grades for sealed roads do not exceed 15 degrees and an average grade of not more than 10 degrees or other gradient specified by road design standards, wherever is the lesser gradient; and*
 - (v) there is a minimum vertical clearance to a height of 4 metres above the road at all times.*

Access – Property Access Roads

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters provided property protection during a bush fire and for occupants faced with evacuation.

- 20) *Property access roads shall comply with the following requirements of Section 4.1.3(2) of 'Planning for Bush Fire Protection 2006';*
- (i) roads do not traverse a wetland or other land potentially subject to periodic inundation (other than a flood or storm surge);*
 - (ii) a minimum carriageway width of 4 metres for rural-residential areas, rural landholdings or urban areas with a distance of greater than 70 metres from the nearest hydrant point to the most external part of a proposed building (or footprint);*
 - (iii) any carriageway constriction along the property access road shall be no less than 3.5 meters in width and for a distance of no greater than 30 metres;*
 - (iv) in forest, woodland and heath situations, rural property access roads have passing bays every 200 metres that are 20 metres long by 2 metres wide, making a minimum trafficable width of 6 metres at the passing bay;*
 - (v) a minimum vertical clearance of 4 metres to any overhanging obstruction, including tree branches;*
 - (vi) internal roads provide a loop road around any dwelling or incorporate a turning circle with a minimum 12 metre outer radius;*
 - (vii) curves have a minimum inner radius of 6 metres and are minimal in number to allow for rapid access and egress;*
 - (viii) the minimum distance between the inner and outer curves is 6 metres;*
 - (ix) the crossfall is not to exceed 10 degrees;*
 - (x) maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads;*
 - (xi) access to a development comprising more than three dwellings have formalized access by dedication of a public road and not by right of way (ROW); and*
 - (xii) access to a development comprising more than three dwellings shall comply with the width specification of Section 4.1.3(1) of 'Planning for Bushfire Protection 2006'.*

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack;

- 21) *New construction on the south eastern elevation(s) shall comply with Section 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and Section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.*
- 22) *New construction on the north western elevation(s) shall comply with Section 6 (BAL 19) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and Section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.*

- 23) *Roofing shall be gutterless or guttering and valleys are to be screened to prevent the build up of flammable material. Any materials used shall be non-combustible.*
- 24) *External doors are to be sealed with draft excluders or weather strips to prevent the entry of embers.*
- 25) *The sub-floor shall be enclosed with non-combustible material to prevent the entry of embers.*

Prior to issue of an Occupation Certificate

- 26) *Prior to issue of an Occupation Certificate, the dam located between Never Never Road and the Dwelling site is to be completed and have a capacity not less than one (1) megalitre.*
- 27) *An easement is to be created on the subject property, Lot 2 DP 599998 and extending through to an evacuation point on Lot 51 DP 753838 'Tryon', 4775 Halls Creek Road, Halls Creek for the purpose of an alternative evacuation route in the event of bush fire. Evidence of the registration of this easement is to be submitted to Council prior to issue of an Occupation Certificate.*
- 28) *That a minimum of 60 cubic metres (60,000L) of stored rainwater shall be provided for domestic purposes. The draw off point for water use for domestic purposes shall be located to allow a minimum of 10,000 litres of stored water for use in fire fighting, to remain in the tank/s at all times.*
 - (i) *Water storage tanks shall have fitted an outlet capable of being coupled to Fire Brigade fire fighting equipment. Fittings shall include the provision of a 65mm stop valve, 65mm "stortz" fitting with blanking cap ("stortz" fittings may be obtained from fire protection equipment suppliers). The "stortz" fitting draw off point shall be located at the base of the storage tanks (or connecting line). Reasonable vehicular access for fire tankers shall be available to the water supply.*
 - (ii) *That the use of bore water shall be restricted to the following purposes unless otherwise approved by Council:*
 - (a) *Flushing of toilets;*
 - (b) *Watering of gardens;*
 - (c) *Stock purposes.*
 - (iii) *Guttering and downpipes shall be provided to convey roof water to the required rainwater tanks.*
- 29) *Tempering valves shall be fitted on all hot water plumbing systems to restrict the delivery temperature of hot water to sanitary appliances to not more than 50° Celsius. The device shall be located to permit access for servicing and repairs. A sign is to be permanently fixed adjacent to the tempering valve, eg. on the hot water heater, indicating "A tempering valve has been installed to prevent scalding and this valve is to be renewed at intervals as recommended by the valve manufacturer".*

30) To ensure that the building work is completed in accordance with the approval and is in a safe and healthy condition for use by the occupants, the building (or part of the building in the case of alterations and additions) shall not be occupied or used until:

- (a) it is completed in accordance with the approval and the principal certifying authority has completed a satisfactory final inspection; or**
- (b) the principal certifying authority gives written permission to allow the building to be occupied or used before it is completed.**

SUMMARY

The following report provides a planning assessment of the proposal for a new dwelling on a property on Never Never Road, Halls Creek.

The subject allotment was created by subdivision approved by the former Manilla Shire Council under Clerk's Certificate No. 6/78.

As a Council approved subdivision, dwelling permissibility exists under the provisions of the Manilla Local Environmental Plan (LEP) 1988 and, because the application was lodged prior to the commencement of the Tamworth Regional Local Environmental Plan 2010, must continue to be assessed and determined under the Manilla LEP.

Applicant: Mr Jeffrey Robert Barrett

Proposal: Dwelling

Location: Lot 2 DP 599998 Never Never Road, Halls Creek

Zone: 1(a) General Rural
Manilla Local Environmental Plan 1988

RU1 Primary Production
Tamworth Regional Local Environmental Plan 2010

COMMENTARY

Background

The subject application follows a recent development application for a new dwelling on Never Never Road which was referred to Council for determination (Development Application No. 0193/2011) and was subsequently refused development consent for the following reasons;

- The access to the proposed dwelling relies on Never Never Road which will not provide satisfactory safe and practical access to the property for fire fighting vehicles and which does not provide a safe evacuation route for residents of the property during bushfire conditions; and
- The proposed dwelling site and the access to it does not provide adequate protection for occupants of the proposed dwelling under bushfire conditions due to the slope of the site and the proposed access.

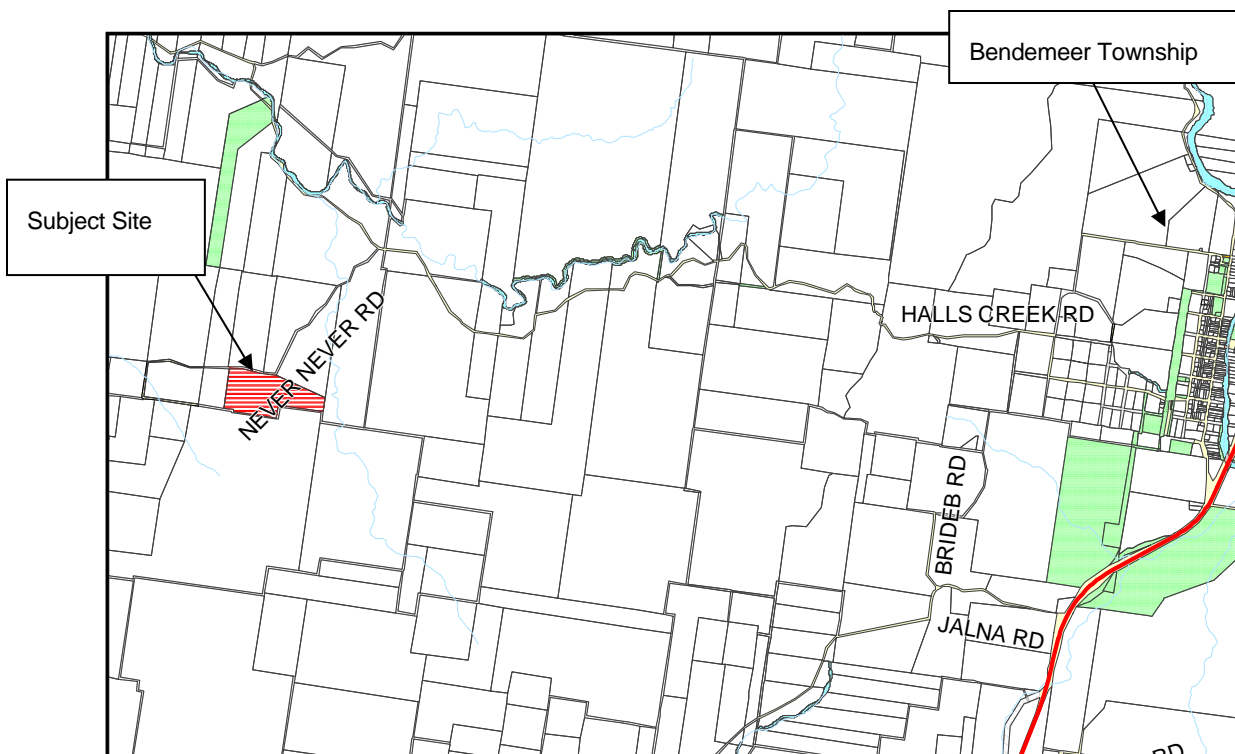
The application currently before Council is similar in that it also proposes a dwelling on a site fronting Never Never Road and is of a similar size in area (approx 40 ha).

However, the subject property (Lot 2 DP 599998 Never Never Road) exhibits site conditions more conducive, when compared to DA0193/2011, for a dwelling in regard to bushfire protection and provides for an alternative access route in the event of evacuation during a bushfire.

The subject property, as depicted below, has been held by the owner/applicant since 1998. It is apparent that the applicant has intended the erection of a dwelling since its purchase.

The applicant has stated that extensive investigation into the opportunity to develop the site has encompassed;

- utilities, such as electricity, sewerage disposal and potable water supply;
- potential historical and aboriginal significance;
- existing vegetation and potential habitats; and
- various consultations with the Rural Fire Service to determine the most appropriate location for a dwelling site and appropriate measures to decrease the risk from bushfire hazard on site.



Assessment under Section 79C(1) of the Environmental Planning and Assessment Act 1979

The development application has been assessed under the relevant considerations of Section 79C(1) of the Environmental Planning and Assessment Act 1979. The primary issues for consideration arise from Section 79C(1)(c) – the suitability of the site for development. In this regard, the question of suitability of the site relates to bushfire hazard, vehicle access and associated public safety. These matters are addressed in the following sections of the report.

Environmental Planning Instruments

Tamworth Regional Local Environmental Plan 2010

The subject land is zoned RU1 Primary Production under the provisions of the recently published Tamworth Regional Local Environmental Plan 2010.

Clause 4.2B of this Plan regulates the erection of dwellings within the rural zones. For a dwelling to be a permissible land use on the subject site, one of the following circumstances must be met:

- a) Minimum area of 800 hectares;
- b) Existing holding; or
- c) Council approved subdivision pursuant to clause 14, 15, 16 or 17 of the Manilla Local Environmental Plan 1988.

The subject allotment does not satisfy any of these provisions.

However, Clause 1.8A of the LEP contains savings provisions which state that any development application lodged prior to the commencement of the new LEP must be determined as if the Plan had not commenced. This being the case, the application must be determined under the Manilla LEP 1988.

Manilla Local Environmental Plan 1988

The subject land is zoned 1(a) (General Rural) pursuant to the provisions of the Manilla Local Environmental Plan 1988.

Clause 19(2) of the Manilla LEP 1988 states:-

'Notwithstanding subclause (1), a person may erect a dwelling on vacant land which comprises:-

- (a) an allotment created by subdivision for which the consent of Council was granted before the appointed day.'*

The subject land does satisfy this provision being an allotment approved by Manilla Shire Council and released under Clerk's Certificate No. 6/78

State Environmental Planning Policy (Rural Lands) 2008

The subject allotment is of little to no agricultural significance with the topography and soil profile unsuitable for any intensive agricultural pursuits. The development of a dwelling will not jeopardise agricultural potential and, therefore, is not in conflict with State Environmental Planning Policy (Rural Lands) 2008.

Suitability of the Site

The subject allotment, being Lot 2 DP 599998, is situated approximately 40 kilometres south-east of Manilla and 14 kilometres north-west of Bendemeer village. This area is historically known as the Never Never Mountains. The lot is 38.72 hectares in area and has frontage to Never Never Road which intersects with Halls Creek Road, approximately 2.3 kilometres to the north east of the site.

The proposed internal road network will link Never Never Road to the dwelling site and through to the neighbouring property to provide for an alternative evacuation route during a bush fire event.

The site exhibits variable terrain from relatively level to gentle sloping areas and steep inclines towards the eastern region of the allotment. The existing vegetation on site is also sporadic in density allowing for lower bushfire attack levels. The proposed dwelling site is situated 315 metres from the front boundary (Never Never Road), 141 metres from the rear boundary (unformed road) and 290metres from the closest side boundary to the west of the dwelling site.

Proposed Development

The development application plans show a two (2) bedroom transportable home with home office, living areas and appropriate amenities. The external façade comprises hardiplank timber cladding, colourbond sheet roofing with added thermofoil to assist in mitigating the potential threat of bushfire. There is an enclosed subfloor with treated pine base boards and weather seals to external doors to provide additional protection from the threat of flying embers in the event of bushfire, and leafless guttering to ensure that build-up of dry flammable leaf litter or debris does not occur.

The proposal also includes the construction of a man-made dam to provide additional water supply for fire fighting purposes. The proposed dam is situated between the dwelling and the road frontage and should provide adequate protection to the internal road if a fire tanker attempts access to the dwelling from Never Never Road during a bush fire.

Bushfire Assessment

The subject site is identified as bushfire prone by the Manilla Bushfire Map. An assessment by the Rural Fire Service has been undertaken in accordance with the provisions of AS2959 – *Construction of building in bushfire prone areas* and 'Planning for Bushfire Protection 2006'.

The proposed dwelling site is classified by the Rural Fire Service as being located within low to medium Bushfire Attack Levels, being BAL12.5 on the south eastern elevations and BAL 19 to the north western elevations.

The comments and conditions recommended by Rural Fire Service – refer **(ANNEXURE 6.5)** demonstrate methods by which compliance with the provisions may be obtained through the use of properly maintained internal roads including passing bays, inner and outer protection areas of managed land, additional construction measures, water supply and location of utilities.

It is noted that the Rural Fire Service have classified the development site as having a low to medium risk of attack for the purposes of dwelling construction.

The Rural Fire Service response focuses on the building and construction methods that can be applied to the building and immediate surrounds to achieve compliance under the appropriate provisions. The response does not refer to the wider context of having to consider evacuation of residents on Never Never Road itself or the hazard for fire fighters who may be called on to access the property along this road.

As previously reported to Council, Never Never Road varies from little more than a farm access track, near the intersection with Halls Creek Road, to a narrow and steep formation that only allows two vehicles to pass with great care.

The applicant has provided information to the effect that the last grading works to the road were not completed to its entirety due to the wet weather at the time and that in previous years the applicant was able to gain access in a two (2) wheel drive vehicle.

Consistent with Council's concerns regarding the previous dwelling application that relies on Never Never Road, support for the current application should not be considered unless an alternative safe evacuation route is available. In this case, the applicant has addressed this concern by securing an alternative safe evacuation route through the adjoining property. The adjoining property owner has provided agreement to register a right of way for this purpose.

(a) Policy Implications

Nil

(b) Financial Implications

Nil

(c) Legal Implications

Nil

(d) Community Consultation

Nil

Conclusion

An assessment of the development application has been undertaken with particular attention to important factors such as bushfire hazard, safe and practical access and the cumulative impacts related to availability of community services and infrastructure to service a dwelling on the site.

This assessment has found that there is a potential for public safety risk due to bushfire hazard and the condition of the main access road to the site. This risk is not satisfactorily addressed by reliance solely on the Never Never Road access for safe evacuation. However, the additional provisions identified below are considered to minimise the risk to a level that satisfies the Council's and Rural Fire Service obligations in relation to measures to address public safety during a bush fire event:

- 1) An alternative safe evacuation route to the primary access from Never Never Road is available for the residents of the property in the event of bushfire;
 - 2) The provision of a safe and adequate internal road to the dwelling site from Never Never Road connecting to the unformed road to the south of the dwelling in accordance with 'Planning for Bushfire Protection 2006', as proposed by the applicant will minimise the risk to life in the event of evacuation; and
 - 3) The subject allotment poses low and medium risk of Bushfire Attack Levels (BALs) to the elevations of the dwelling in accordance with AS3959 – Construction of buildings in bushfire prone areas.
-

7 INFRASTRUCTURE AND SERVICES

7.1 FUNDING GRANT FOR WATER AND WASTEWATER EDUCATION CENTRE - FILE NO 3721

DIRECTORATE: WATER ENTERPRISES

AUTHOR: Ian Lobban, Water Sustainability Officer

RECOMMENDATION

That in relation to the report Funding Grant for Water and Wastewater Education Centre Council:

- (i) Submit an Expression of Interest to apply for \$100,000 in grant funding from the NSW Environmental Trust to develop a Water and Wastewater Education Centre at the Westdale Wastewater Treatment Plant; and***
- (ii) provide an additional \$50,000 to complete the education centre from funding presently available in the 2010/2011 budget for water sustainability projects.***

SUMMARY

Water Enterprises is seeking to make an Expression of Interest for \$100,000 in grant funding from the NSW Environmental Trust to establish a Water and Wastewater Education Centre at the Wastewater Treatment Plant (WWTP), Westdale. The estimated total cost to establish a Water and Wastewater Education Centre at Westdale is \$150,000. Council's direction is required with regard to submitting the Expression of Interest and towards making a further \$50,000 of Council funds available to complete this project in the event the full grant funds are provided.

COMMENTARY

The NSW Environmental Trust is calling for Expressions of Interest for a series of funding grants for environmental education. The Environmental Trust is an independent statutory body established by the NSW government to support exceptional environmental projects that do not receive funds from the usual government sources. The Trust is empowered under the Environmental Trust Act 1998, and its main responsibility is to make and supervise the expenditure of grants. The Trust is administered by the Department of Environment, Climate Change and Water (DECCW).

The Environmental Trust is currently offering funding grants within its education program for State and Local Government organisations (not schools) for up to \$100,000. The aim of the Environmental Trust's Education program is to support educational projects or programs that develop or widen the community's knowledge of, skills in, and commitment to protecting the environment and promoting sustainable behaviour. The objectives of its education program are to:

- help attain one or more of the outcomes in the NSW Government's Environmental Education Plan, Learning for Sustainability;
- facilitate changes in behaviour of individuals and groups which affect specific environmental problems; and
- develop and promote education projects which improve the environment.

Building on work previously completed in the water sustainability area and in light of the soon to be completed Westdale Wastewater Treatment Plan augmentation and Reuse Farm, Council is asked to consider developing a Water and Wastewater Education Centre to be located at the new Wastewater Treatment Plant (WWTP), Westdale. It is envisaged the centre would be housed in an attractive demountable-classroom style of building with the following functions and services:

- space to seat 30 people;
- chairs with foldout writing platforms;
- whiteboard;
- data projector with sound speakers;
- space for posters, maps, and models;
- toilets, including Special Needs facilities; and
- some planting and landscaping of front and entranceway.

This Water and Wastewater Education Centre would be designed to educate school students and members of general public in water and wastewater processes and issues. It would be used as a starting point and orientation for tours of the WWTP and the nearby Reuse Farm, and would also be used to run general water sustainability education programs with a holistic approach to the water cycle, combining tours of Chaffey Dam, Calala Water Treatment Plant, Westdale Wastewater Treatment Plant, and the Reuse Farm. The water cycle and water sustainability programs would be run regularly by Council's Water Sustainability Officer, at an estimated two sessions per week. This program would include some information on the Westdale WWTP and Reuse farm, however, specialist staff from the Westdale plant would also run information sessions and tours from this centre. These could be run both inside and outside standard work hours to accommodate members of the general public. University students and teaching staff conducting site tours, and representatives of other interested government bodies could also be accommodated in such a facility.

Dependent on the specific audience the general topics covered in this education centre would be:

- the water cycle within the natural environment;
- water treatment processes;
- wastewater treatment processes;
- water delivery systems and infrastructure; and
- the importance of water sustainability and how the community can achieve and maintain it.

The estimated cost of establishing this Water and Wastewater Education Centre is \$150,000.

There are five possible Funding Levels that can currently be applied for within the Expression of Interest to the NSW Environmental Trust:

\$5,000 to \$15,000

\$15,001 to \$25,000

\$25,001 to \$50,000

\$50,001 to \$75,000

\$75,001 to \$100,000

Given the cost of the proposed project, an application for the full amount of \$100,000 for the development of a Water and Wastewater Education Centre would be submitted. If successful in securing this grant funding, a further \$50,000 would be required to the development of this education centre. Sufficient funds are available in the present Management Plan in the water sustainability area to fund the additional expenditure required. There would also be some ongoing maintenance costs for the centre that would be met from these budgets over subsequent years.

The site identified for this prospective education centre is a space adjacent to the existing site-office at the Wastewater Treatment Plant, Westdale. This site carries advantages such as access to existing power, water, and sewer services, and existing hardstand carpark area for visitor cars and buses. It is also in close proximity to both the WWTP and the Reuse Farm.

Expressions of Interest for this funding grant close on 21 April, 2011. Application is then by invitation only at the discretion of the NSW Environmental Trust. If this application is successful the project cannot start before 1 February, 2012, but must start before 30 June, 2012, with a proposed completion date of a maximum of 3 years duration.

(a) Policy Implications

Water and wastewater education, and the sourcing and application for external grant funding, are both project outcomes within TRC's *Water Sustainability Strategy 2011-2014*.

(b) Financial Implications

Subject to Council approval an application for the full grant funding amount of \$100,000 for the construction of a Water and Wastewater Education Centre will be submitted. If successful in securing this amount a further \$50,000 will be required to complete the development of this education centre. Funding is available with the water sustainability area of the 2010-2011 budget to fund this work is required. There will be some ongoing maintenance costs that will also be met from these budgets.

(c) Legal Implications

Nil.

(d) Community Consultation

Nil.

8 GOVERNANCE, STRATEGY AND FINANCE

8.1 TAMINDA LEVEE ROAD REALIGNMENT JEWRY STREET, BRITTEN ROAD AND BELMORE STREET - FILE NO SF110

DIRECTORATE: CORPORATE & GOVERNANCE
AUTHOR: Chris Johnston, Manager Commercial Lands

RECOMMENDATION

That in relation to the realignment of Jewry Street, Britten Road and Belmore Street road reserves associated with the construction of the Taminda Levee, Council:

- (i) authorise the making of an application to the Land and Property Management Authority to closure of parts of Britten Road and Belmore Street road reserves under terms as detailed in the report;*
- (ii) authorise the dedication of part of Lots 4 to 8 in DP 32550, part Lot 1 in DP 44224 and part Lot 1 in DP 217032 as public road; and*
- (iii) authorise the affixing of the Seal of Council to the plan of survey of road closure and road dedication, the request documents for the issue of Certificates of Title over the closure road areas and all associated documents.*

SUMMARY

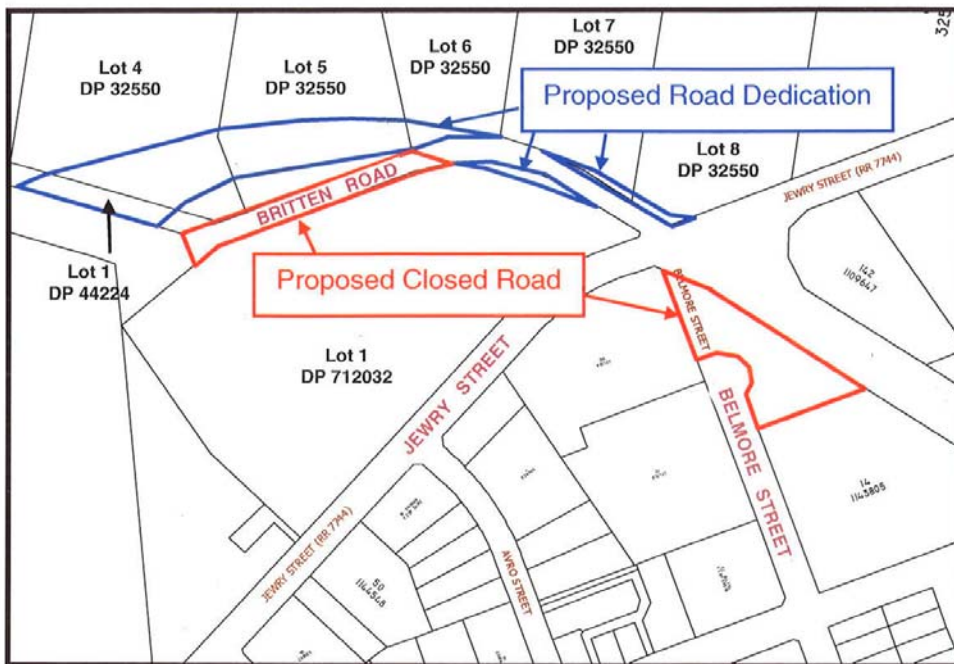
The construction of the Taminda Levee has necessitated the realignment of Jewry Street, Britten Road and Belmore Street to accommodate the new road construction on the top of the levee bank. This report seeks Council's authorisation for the dedication of part of Lots 4 to 8 in DP 32550, part Lot 1 in DP 44224 and part Lot 1 in DP 217032 as public road, and closure of part of Britten Road and Belmore Street that are no longer required for road purposes.

COMMENTARY

The construction of the Taminda Levee provided for a new roadway on top of the levee bank. This in turn has necessitated the realignment of Jewry Street, Britten Road and Belmore Street to accommodate the new road construction. The land required to be dedicated for road purposes in this regard is owned by Council and comprises part of Lots 4 to 8 in DP 32550, part Lot 1 in DP 44224 and part Lot 1 in DP 217032.

The new constructed roadway has rendered parts of Britten Road and Belmore Street, which were previously constructed to bitumen seal, unnecessary for road purposes. It is proposed that Council make application to the Land and Property Authority to close these sections of Britten Road and Belmore Street.

A plan showing the location of the land proposed to be dedicated as new road and the sections of Britten Road and Belmore Street proposed to be closed is provided below for reference.



The Roads Act 1993 requires that a plan of survey identifying the land proposed to be dedicated as for new public road and existing road reserve proposed to be closed must be registered with the Land and Property Management Authority (LPMA). Upon finalisation of the road closure process the land comprising the closed road will be transferred to Council's ownership in Fee Simple Title and classified Operational land.

The closed road section of Britten Road comprises part of the Tamworth Regional Racing Precinct area. The Tamworth Regional Racing Precinct Working Group is currently considering matters associated with the leasing of precinct land from Council and the Tamworth Jockey Club, and the submission of a Development Application for the new racing tracks and associated works. It is anticipated that the closure of the section of Britten Road will be a condition of the Development Application for the development of the racing precinct.

There is no current budget allocation for the abovementioned road dedication and closure, nor for the anticipated legal costs associated with the development of a leasing structure over Council's Racing Precinct land. It is estimated that costs associated with both of these matters will be in the order of \$20,000. Accordingly, it is recommended that Council authorise the allocation of funds from the Property Acquisition and Development Reserve to provide for the cost of the work.

(a) Policy Implications

Nil.

(b) Financial Implications

As detailed in the report.

(c) Legal Implications

The Seal of Council is required to be affixed to the plan of survey of road closure and road dedication and the request documents for the issue of Certificates of Title over the closure road areas. The Local Government (General) Regulation 2005, section 400(4), requires that the Seal of Council must not be affixed to a document unless the document relates to the business of the council and the council has resolved (by resolution specifically referring to the document) that the seal be so affixed.

(d) Community Consultation

The process of application to the LPMA requires that the Authority give public notice of the proposed road closure for a period of 28 days. The Authority will advise adjoining land owners of the application to close the road and place an advertisement in the local newspaper inviting submissions from interested parties.

8.2 COUNCIL'S INVESTMENT POLICY - FILE NO SF3455

DIRECTORATE: CORPORATE AND GOVERNANCE

AUTHOR: Mark Crompton, Finance and Information Technology Manager

ANNEXURE ATTACHED

RECOMMENDATION

That in relation to the report titled "Council's Investment Policy", Council receive and note the report and approve the amended Investment Policy.

SUMMARY

The purpose of this report is to submit to Council an amended Investment Policy for Council to review and adopt.

COMMENTARY

On 25 May 2010 the Department of Local Government issued 'Investment Policy Guidelines' to supplement the Investment Order. Council on July 13, 2010 adopted a revised investment policy to accord with the Investment Order. A copy of this policy is **ATTACHED** and marked **ANNEXURE 8.2A**.

On 11 February 2011 the Department of Local Government published a revised ministerial investment order in the NSW government Gazette. Council's Investment Policy has now been reviewed to ensure that the policy accords with both the Investment Order and the Investment Policy Guidelines. A copy of the revised Investment Policy is **ATTACHED** and marked **ANNEXURE 8.2B**.

The guidelines did not change the intent of Council's existing policy but provided greater detail in relation to prohibited investments by removing Council's ability to invest in the mortgage of land and removing the ability to make a deposit with Local Government Financial Services Pty Ltd. These items were previously allowed under part (c) and Part (f) of the Investment Order dated 31 July 2008.

These changes to detail have been incorporated into the revised policy as follows:

Prohibited Investments – expanded definition.

Schedule 1 – copy of the investment order has been incorporated.

(a) Policy Implications

Adoption of the amended policy will ensure full compliance with the Local Government Act 1993 – Investment Order, 12 January 2011 and the Investment policy Guidelines issued by the Division of Local Government 25 May 2010.

(b) Financial Implications

Nil.

(c) Legal Implications

Nil.

(d) Community Consultation

Nil.

8.3 SECTION 355 COMMITTEES - MINUTES - FILE NO SF2256

DIRECTORATE: CORPORATE AND GOVERNANCE

AUTHOR: Jodie Archer, Section 355 Coordinator

TABLED DOCUMENTS



S355 Minutes

RECOMMENDATION

(iv) That the minutes of the following Section 355 Committees listed below be received and noted:

<u><i>Committee</i></u>	<u><i>Meeting Date</i></u>
<i>Manilla Showground Users Committee - AGM</i>	<i>12 October 2010</i>
<i>Barraba Showground Management Committee</i>	<i>17 November 2010</i>
<i>Barraba Australia Day Committee</i>	<i>11 January 2011</i>
<i>Kootingal War Memorial Hall Committee</i>	<i>8 February 2011</i>
<i>Kootingal Recreation Reserve Committee</i>	<i>15 February 2011</i>
<i>Manilla Showground Users Committee</i>	<i>15 February 2011</i>
<i>Grey Fergie Tractor Muster Committee</i>	<i>23 February, 2011</i>
<i>Dungowan Recreation Ground Committee</i>	<i>23 February 2011; and</i>

(v) That Council adopt the recommendation of the Manilla Showground Users Committee at its Annual General Meeting held 12 October, 2010 to appoint the following persons as Office Bearers of the Manilla Showground Users Committee:

President: Jim Maxwell
Vice President: Warren McAdam
Secretary: Michelle Eggins.

SUMMARY

The purpose of this report is to table the minutes of the Section 355 Committee meetings that were provided to Council during March 2011.

COMMENTARY

- (i) The minutes of the following Section 355 Committee meetings are tabled for Council's information. These committees are:

<u>Committee</u>	<u>Date</u>
Manilla Showground Users Committee - AGM	12 October 2010
Barraba Showground Management Committee	17 November 2010
Barraba Australia Day Committee	11 January 2011
Kootingal War Memorial Hall Committee	8 February 2011
Kootingal Recreation Reserve Committee	15 February 2011
Manilla Showground Users Committee	15 February 2011
Grey Fergie Tractor Muster Committee	23 February, 2011
Dungowan Recreation Ground Committee	23 February 2011; and

- (ii) The minutes of the Manilla Showground Users Committee's Annual General Meeting held 12 October 2010 recommended the following:

Election of Office Bearers

That Council appoint the following persons as Office Bearers of the Manilla Showground Users Committee:

President: Jim Maxwell
Vice President: Warren McAdam
Secretary: Michelle Eggins.

(a) Policy Implications

Nil.

(b) Financial Implications

Nil.

(c) Legal Implications

Functions of Council are exercised by these Committees in accordance with the delegation under Section 377 of the Local Government Act.

(d) Community Consultation

Community Consultation is not required.

8.4 COMMUNITY DEVELOPMENT COMMITTEES - MINUTES - FILE No SF2788, SF2586, SF2637, SF2965 & SF2664

DIRECTORATE: CORPORATE AND GOVERNANCE

AUTHOR: Jodie Archer, Section 355 Coordinator

TABLED DOCUMENTS



CDC Minutes

RECOMMENDATION

- (i) That Council receive and note the minutes of the following Community Development Committee meetings:

<u>Committee</u>	<u>Date</u>
<i>Hanging Rock Community Development Committee</i>	<i>11 December 2010</i>
<i>Manilla Community Development Committee</i>	<i>2 March 2011</i>
<i>Nundle Community Development Committee</i>	<i>7 March 2011</i>
<i>Barraba Community Development Committee</i>	<i>7 March 2011</i>
<i>Kootingal Community Development Committee</i>	<i>14 March 2011;</i>

- (ii) That Council adopt the recommendation of the Nundle Community Development Committee at its general meeting held 7 March, 2011 to form the Nundle History and Heritage Research Sub Committee with the following functions:

- *Foster an interest in the history and heritage of Nundle:*
- *Collect oral, manuscript, photographic and printed historical material relating to Nundle and district (In reference to the TRC Community Plan p.126);*
- *Investigate opportunities for updating/or re-issuing of historical publications relating to the Nundle area (TRC CP p.37) and seek to research and publish papers and books on the history of Nundle and district;*
- *Explore ways for Nundle to link into TRC's Main Street Programs that celebrate the history and special characteristics of each town and investigate opportunities for the preservation of historic buildings in the main street of Nundle (TRC CP p. 42; 88);*
- *Investigate opportunities for the preservation of historic buildings, water races and historic cemeteries (TRC CP p.43; 60);*
- *Assist the Nundle Lions Club in cataloguing and preservation of historical records at the Nundle Museum and conservation of the historical collections (TRC CP p. 88).*

SUMMARY

The purpose of this report is to table the minutes of the meetings of the Community Development Committees and consider the items for adoption, as recommended by the Committees.

COMMENTARY

- (ii) The minutes of the following Community Development Committee meetings are tabled for Council's information. These Committees are:

<u>Committee</u>	<u>Date</u>
Hanging Rock Community Development Committee	11 December 2010
Manilla Community Development Committee	2 March 2011
Nundle Community Development Committee	7 March 2011
Barraba Community Development Committee	7 March 2011
Kootingal Community Development Committee	14 March 2011; and

- (ii) The minutes of the Nundle Community Development Committee's meeting held 7 March 2011 recommend the following:

Formation of the Nundle History and Heritage Research Sub Committee

That Council adopt the recommendation of the Nundle Community Development Committee to form the Nundle History and Heritage Research Sub Committee with the following functions;

- Foster an interest in the history and heritage of Nundle:
- Collect oral, manuscript, photographic and printed historical material relating to Nundle and district (In reference to the TRC Community Plan p.126);
- Investigate opportunities for updating/or re-issuing of historical publications relating to the Nundle area (TRC CP p.37) and seek to research and publish papers and books on the history of Nundle and district;
- Explore ways for Nundle to link into TRC's Main Street Programs that celebrate the history and special characteristics of each town and investigate opportunities for the preservation of historic buildings in the main street of Nundle (TRC CP p. 42; 88);
- Investigate opportunities for the preservation of historic buildings, water races and historic cemeteries (TRC CP p.43; 60);
- Assist the Nundle Lions Club in cataloguing and preservation of historical records at the Nundle Museum and conservation of the historical collections (TRC CP p. 88).

(a) Policy Implications

It is a policy decision of Council to maintain Community Development Committees and practices having regard to Council's community governance structure and Section 355 of the Local Government Act.

(b) Financial Implications

No formal request for funds at this point in time.

(c) Legal Implications

Section 355 of the Local Government Act 1993 enables the Council to appoint a committee to exercise a function on its behalf by way of a Committee of Council. This is used in conjunction with Section 377 of the Act to formally delegate functions to the appointed committee.

(d) Community Consultation

Community Consultation is not required.

8.5 2011 NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT - MOTION - FILE NO SF1385

DIRECTORATE: OFFICE OF THE GENERAL MANAGER

AUTHOR: Paul Bennett – General Manager

(Reference: Ordinary Council 8 February 2011 Item 8.5)

RECOMMENDATION

That Council authorise the following motion to be moved at the 2011 National General Assembly for Local Government:

“In recognition of the huge backlog of works and deterioration of service levels on local roads throughout Australia, created by the ongoing under funding of maintenance and renewal activities, that the National General Assembly of Local Government request the Federal Government replace the Roads to Recovery Program with a recurrent funding program for local roads fixed by a percentage of one or more of the government's growth revenue streams (such as fuel excise or GST).”

SUMMARY

Council requested at its Ordinary Meeting held on the 8 February 2011 that the motion be referred to Council before submission. Hereunder is the Call for Motion that must be submitted online by 22 April 2011.

“Motion

In recognition of the huge backlog of works and deterioration of service levels on local roads throughout Australia, created by the ongoing under funding of maintenance and renewal activities, that the National General Assembly of Local Government request the Federal Government replace the Roads to Recovery Program with a recurrent funding program for local roads fixed by a percentage of one or more of the government's growth revenue streams (such as fuel excise or GST).

Theme

Tamworth Regional Council believes the theme of this motion is Partnership, this motion identifies an opportunity to develop an ongoing and essential partnership to improve the service levels of our local road infrastructure.

National Objective

Council is asking for a funding strategy for local roads that will be consistent across all local governments not just for one State or Territory and guaranteed by the Federal Government. Councils need this to ensure that local roads can be maintained to an acceptable standard.

Summary of Key Arguments

In October 2010 Jeff Roorda and Associates released a report "The Local Roads Funding Gap" on behalf of the Australian Local Government Association examining the local road network and the impacts of the Roads to Recovery Program and the gap between funding needs and funding availability.

The report identified local roads controlled by councils account for 80% of Australia's total road network by length and for most council's is the largest single item of expenditure in their budgets. The Roads to Recovery Program was introduced by the Federal Government in 2000 to recognise the importance of local roads however the funding provided in the program has not been sufficient to slow the steady decline in the state of local roads. This corresponds with many councils own data regarding their renewal gap for roads assets.

Roads infrastructure makes up just one asset group that councils own and maintain. Many of our other assets such as buildings and recreational facilities also require renewal and maintenance expenditure that council's must fund. As councils take on more and more responsibility to meet our community's expectations the support from State and Federal Governments in the form of relevant grant funding has declined. Many grants offered to local government contain stipulations so that the funding can not be spent on renewal or maintenance of existing assets such as local roads or asset infrastructure. If current expenditure trends continue councils will not have the funding available to sustain the local road networks to the current service levels.

The most significant finding for local councils identified in the ALGA report is that expenditure on local roads will need to increase by an average of \$1.2 billion per year for the next 15 years to avoid further and possible acceleration of service level deterioration. This is an astounding statement for local government that have seen a substantial increase in transport loads on our roads from the manufacturing, mining, agriculture and forestry sectors and the fact that councils do not have the capacity to raise this amount of funding from our own revenue sources.

This motion highlights the need for Local Government to obtain a secure and reliable revenue source to ensure the current levels of service for local road networks are maintain and improved. By replacing the Roads to Recovery Program with a new scheme for allocating a fixed percentage of fuel excise or GST revenue to local roads, Local Government will be able to fund the future projections of renewal and maintenance works that are highlighted in the Asset Management Plans of council.

Contact Information

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Declaration

To be advised"

COMMENTARY

In relation to Conference Motions, the ALGA has identified three themes under which motions should be submitted. These address key priority areas for the Australian Government to develop policy and are areas which complement and build on existing ALGA and Local Government positions. The themes for motions in 2011 are:

- *PLACE*
- *POSITION*
- *PARTNERSHIP*

The 2011 NGA, with the theme of 'Growing with our Community – Partnership, Place and Position', aims to stimulate ideas about new ways of doing business to meet the needs of local people and their communities. The Conference will be held in Canberra on the 19 – 22 June, 2011.

(a) Policy Implications

Nil.

(b) Financial Implications

Nil.

(c) Legal Implications

Nil.

(d) Community Consultation

Not Required.

9 REPORTS FROM DELEGATES

10 QUESTIONS AND MATTERS OF CONCERN

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.

CLOSED COUNCIL

Confidential Reports

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

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

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

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

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

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

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

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

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

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

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

Resolutions passed in Closed Council

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