



TAMWORTH REGIONAL COUNCIL

Notice is hereby given, in accordance with the provisions of the Local Government Act 1993 that a **Meeting of Tamworth Regional Council** will be held in the **Council Chambers, Lands Building, Nemingha Room, 25-27 Fitzroy Street, Tamworth**, commencing at **6.30pm**.

ORDINARY COUNCIL AGENDA

12 SEPTEMBER 2023

PAUL BENNETT
GENERAL MANAGER

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Council

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

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

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

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

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

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

Community Consultation Policy

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

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

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

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

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

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

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

Members of the public will not be permitted to use Community Consultation to abuse, vilify, insult, threaten, intimidate or harass Councillors, Council staff or other members of the public. Conduct of this nature will be deemed to be an act of disorder and the person engaging in such behaviour will be ruled out of the order and may be expelled.

Disclosure of Political Donations or Gifts

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

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

AGENDA

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

RECOMMENDATION

That the Minutes of the Ordinary Meeting held on Tuesday, 22 August 2023, copies of which were circulated be taken as read and confirmed as a correct record of the proceedings of the Meeting.

4 DISCLOSURE OF INTEREST

Pecuniary Interest

Non Pecuniary Conflict of Interest

Political Donations

5 MAYORAL MINUTE

5.1 VOLUNTARY PLANNING AGREEMENTS FOR RENEWABLE ENERGY PROJECTS

DIRECTORATE: OFFICE OF THE GENERAL MANAGER

AUTHOR: Russell Webb, Mayor

RECOMMENDATION

That in relation to the report “Voluntary Planning Agreements for Renewable Energy Projects”, Council adopts as policy the following requirements for all renewable energy projects:

- (i) the proponents enter into a Voluntary Planning Agreement (VPA) consisting of a lump sum of 1.5% of capital value (adjusted annually for CPI), 50% of which is to be paid to Council on commencement of construction and the remainder to be paid on an annual basis for the life of the development;*
- (ii) this payment be additional to any agreed community benefit sharing arrangement such as a community enhancement fund; and*
- (iii) Council's preference is that any community enhancement fund (and the like) be administered by a philanthropic Community Benefit Fund provider rather than Council, with Council holding a role as member.*

SUMMARY

The purpose of this Mayoral Minute is to seek a resolution of Council to establish the approach to Voluntary Planning Agreements that are offered in association with proposed renewable energy projects in the Tamworth Regional Local Government Area. Tamworth Regional Council is receiving an increasing number of renewable energy proposals, some of which are on a massive scale and include significant impacts to the environment, community, infrastructure and agricultural land.

COMMENTARY

Councillors would be aware that the number of renewable energy projects within the Tamworth Region being proposed or in the process of applying for approval is significant and increasing. These projects have the potential to not only impact communities with close proximity, but also to create significant and lasting impacts on the wider Tamworth Region.

To date each project has been treated individually, therefore on a case-by-case basis. This has led to some inconsistent outcomes in terms of impact and potential community benefit across the Region. Oftentimes, Council is not the consent authority and yet is required allocate considerable staff resources to assess the applications in an effort to ensure the best achievable outcomes for the community. Renewable energy projects are increasingly of a massive scale, effectively leading to the industrialisation of agricultural land, village and town streets, as well environmental and scenic landscapes.

Tamworth Regional Council is increasingly working with other Councils in the New England North West on a coordinated approach to such developments especially in terms of community benefit sharing arrangements. A common approach that is developing is the entry into voluntary planning agreements that apply a baseline payment to Council of 1.5% of capital investment in addition to offers of community enhancement funds and the like.

Community enhancement funds are rightfully designed to benefit the neighbours and communities located in the vicinity of the proposed developments but often have a relatively

modest yield over the life of the project in some cases of 0.5%-0.6% of the capital cost and take the life of the project to yield that amount.

A more realistic approach that is being promoted in the region is the payment to Council of a 1.5% contribution of capital value in order that Council can undertake meaningful works to benefit the entire community and respond appropriately to projects that have a significant impact on Council's regional infrastructure.

Experience has shown that the administration of the community enhancement fund aspect of the VPA can involve significant costs to Council. An alternative favoured approach that is used in NSW is the administration of such funds by philanthropic organisations such as the Community Benefit Fund™ which specialises in the administration of these funds.

(a) Policy Implications

This policy provides a consistent approach to all renewable energy projects proposing to locate within the Tamworth Region and clarifies Council's requirements for all proponents.

(b) Financial Implications

This policy goes some way to minimise the potential adverse financial imposition that can result as a consequence of a major renewable energy project, particularly in respect of Council infrastructure over the life of a project.

(c) Legal Implications

Nil

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

Focus Area 6 – Working with and Protecting our Environment

6 NOTICE OF MOTION

6.1 NOTICE OF MOTION – CR MARK RODDA - TRANSPARENCY AND ACCOUNTABILITY

MOTION

That Council develop a framework and smart device/laptop application that records and publicises interactions between developers, builders, their agents and senior council staff and Councillor(s) to provide clarity of decision making, transparency and accountability to ratepayers and residents.

Notice is given that I intend to move the above Motion at the Meeting of the Council to be held on 12 September 2023.

SUPPORTING INFORMATION

Background

In 2020 a proponent of a new industrial subdivision was fortunate that Council was successful for a State Government block repair grant that saw the adjoining busy public road upgraded to a smooth hot-mix road just in time for the completion of the subdivision. Minor road contributions from the subdivision's proponent were required but largely paid for by the taxpayer. The works greatly enhanced the appearance and no doubt value of the new subdivision project. What discussions were held prior to the decision to apply funds specifically to that project over other neglected roads? Evidently the proponent has historical connections to elected councillors and council staff.

In 2021 a proponent of a feedlot lodged an application with Council, the decision of the former Council was to reject the proposal. After the 2021 local government elections the proposal was brought before Council again in 2022, this time it was passed, what discussions were had between the proponent and Council staff/Councillors to facilitate the matter returning to Council after the original rejection? What information or advice was sought by council to defend Council's original decision and why wasn't this information shared with the new Council? Evidently the proponent has a connection to an elected councillor or councillors.

In 2021 discussions were held between the proponent of a residential subdivision and council staff and councillors about a significant intersection and why they shouldn't have to pay the significant costs of road and bridge works, the proponent received a decision that significantly transfers the cost burden of the second stage road and bridge works onto the ratepayers. Residents and ratepayers should know how the decision was made and the impact on their rate revenue and Council's budget?

In 2022 a local business owner complained about problems with an adjoining development, he had complained to Council staff to no avail and then he complained to the proponent of the project to which he received a reply from the proponent "I can do anything I want, I have connections in Council". This comment was verified by the local builder's staff. The proponent does have a connection to a significant Council staff member. While the comment could be considered a throw away, heat of the moment comment, it highlights that confidence can be undermined in our institutions when decisions and relationships between people are not open and transparent. Evidently the proponent has a connection to a council employee.

These are a number of examples of matters that undermine public faith in elected governments. I believe a policy and application that records these interactions will enhance transparency and accountability and help restore faith in our institutions. I am seeking Council's support to lift the veil and develop a policy framework and digital application that records and publicises interactions as described above. I believe this will greatly enhance the image and reputation of Tamworth Regional Council. I commend the motion.

(a) Policy Implications

Nil

(b) Financial Implications

Nil

(c) Legal Implications

Nil

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

Focus Area 9 – Open and collaborative leadership.

T1. Conduct the business of Council business transparency and accountability.

Cr Mark Rodda

4 September 2023

OPEN COUNCIL REPORTS

7 ENVIRONMENT AND PLANNING

7.1 USE OF PUBLIC FOOTPATHS FOR RESTAURANT AND OUTDOOR SEATING POLICY - PUBLIC EXHIBITION SUBMISSIONS AND FINAL POLICY

DIRECTORATE: LIVEABLE COMMUNITIES

AUTHOR: Rachel Mann, Senior Environmental Health Officer

Reference: Item 7.1 to Ordinary Council 11 July 2023 - Minute No. 161/23

2 ANNEXURES ATTACHED

RECOMMENDATION

That in relation to the report “Use of Public Footpaths for Restaurant and Outdoor Seating Policy - Public Exhibition Submissions and Final Policy”, Council adopt the revised “Use of Public Footpaths for Restaurant and Outdoor Seating Policy”.

SUMMARY

Council has developed a revised Use of Public Footpaths for Restaurant and Outdoor Seating Policy with community consultation informing the revision process. The draft policy was placed on formal public exhibition from 12 July until 9 August 2023. The purpose of this report is to recommend the adoption of the finalised Policy.

COMMENTARY

Council considered the proposed changes to the Use of Public Footpaths for Restaurant and Outdoor Seating Policy at its Ordinary Meeting on 11 July 2023. The main proposed change was to allow for the service of alcohol without a meal at all outdoor dining areas within the Tamworth CBD alcohol-free zone.

The initial community consultation feedback was considered at that meeting. It was decided that the draft revised policy would be placed on public exhibition for a further period of 28 days to allow the community additional opportunity to provide feedback on the proposed changes. The draft revised policy was placed on public exhibition from 12 July until 9 August 2023. The consultation was conducted online through a dedicated project page on the TRC Online Community, as well as utilising Council’s social media platforms.

A total of 20 submissions were received during the formal exhibition period. Once again, the feedback from the community was generally supportive of the proposed change. However, several submissions raised concern over whether the change would impede pedestrian access on public footpaths, with some suggesting that alcoves be created in lieu of parking spaces to ensure the footpaths are kept clear. This proposal is outside of the scope for this policy review but could be further investigated at a future date if Council wishes to consider the idea. In the interim, Council Community Safety officers can be called upon to enforce the conditions of the policy where actionable complaints are received in relation to footpath obstruction.

It is relevant to note that the issue of public safety was once again flagged, however as acknowledged in the previous report to the 11 July 2023 Ordinary Meeting, Council has invested heavily in extensive CCTV infrastructure throughout the CBD. This, in conjunction with a proactive liquor accord and proprietors will no doubt assist in ensuring any changes to the policy will have a positive social impact.

A copy of the verbatim submission comments received are **ATTACHED**, refer **ANNEXURE 1**.

Feedback from Council technical staff identified the potential safety issues relating to awnings over public lands, in particular public footpath dining areas. Outdoor dining can intensify the use of public spaces underneath or near awnings. Given that the proposed change to this policy may indeed have this effect, an addition has been made to Section 1 (ii) of the policy to address this public safety concern.

The new condition will require awnings associated with the use of public footpaths for restaurant and outdoor seating to be certified by a structural engineer to confirm the awning is structurally adequate and complies with Section B of Volume 1 of the National Construction Code. This is in line with the exempt development requirements outlined in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, Subdivision 20A Footpaths – outdoor dining.

(a) Policy Implications

A copy of the final revised Use of Public Footpaths for Restaurant and Outdoor Seating Policy is **ATTACHED**, refer **ANNEXURE 2**.

(b) Financial Implications

Nil

(c) Legal Implications

The ongoing responsibility for ensuring the appropriate behaviour of patrons under the amended policy does not change and all proprietors are accountable for implementing Responsible Service of Alcohol (RSA) within their business. Licenced premises are required to comply with the conditions as set out on their individual liquor licences which override any policy implemented by Council.

(d) Community Consultation

Consultation with all relevant stakeholders has been undertaken, being the hospitality sector; NSW Police, specifically the Oxley LAC Licencing Unit; independent Liquor and Gaming Authority; relevant local working groups and accords; and the broader community.

(e) Delivery Program Objective/Strategy

Focus Area 2 – A Liveable Built Environment

L2 Vibrant city and town centres.

7.2 DA2022-0547 - DEMOLITION OF EXISTING BUILDINGS, ALLOTMENT CONSOLIDATION AND SUBDIVISION, AND CONSTRUCTION OF A CENTRE-BASED CHILDCARE FACILITY ON LOTS 52 - 56 IN DP 2356 AND LOT 1 IN DP 44204 - 7-9 GORMAN STREET NORTH TAMWORTH NSW 2340

DIRECTORATE: LIVEABLE COMMUNITIES
AUTHOR: Alice Elsley, Senior Development Assessment Planner

1 ANNEXURES ATTACHED

1 CONFIDENTIAL ENCLOSURES ENCLOSED

GENERAL MANAGER'S ADVISORY NOTE TO:

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

Record (Division) of Voting

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

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

Relevant Planning Application

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

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

Relevant Public Submission

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

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

Disclosure of Reportable Political Donations and Gifts

Planning Applications
NIL
Public Submissions
NIL

RECOMMENDATION

That Council, in relation to Development Application No. DA2022-0547 for the demolition of existing buildings and subdivision, and construction of a centre-based child care facility on Lots 52 – 56 in DP 2356 and Lot 1 in DP 44204, 7-9 Gorman Street NORTH TAMWORTH NSW 2340, grant consent subject to the following conditions:

General Conditions of Consent

1) Development shall take place in accordance with the attached endorsed plans:

<i>Project Ref No.</i>	<i>Sheet No.</i>	<i>Rev No.</i>	<i>Revision Date</i>	<i>Prepared by: (consultant)</i>
<i>21128</i>	<i>01</i>	<i>F</i>	<i>21/06/2023</i>	<i>Baini Design</i>
<i>21128 Site Analysis Plan</i>	<i>03</i>	<i>F</i>	<i>21/06/2023</i>	<i>Baini Design</i>
<i>21128 Tree Management Plan</i>	<i>04</i>	<i>F</i>	<i>21/06/2023</i>	<i>Baini Design</i>
<i>21128 Shadow Diagrams</i>	<i>05-06</i>	<i>F</i>	<i>21/06/2023</i>	<i>Baini Design</i>
<i>21128 Site Plan</i>	<i>07</i>	<i>F</i>	<i>21/06/2023</i>	<i>Baini Design</i>
<i>21128 Demolition and Amalgamation Plan</i>	<i>08</i>	<i>F</i>	<i>21/06/2023</i>	<i>Baini Design</i>
<i>21128 Ground Floor Plan</i>	<i>09</i>	<i>F</i>	<i>21/06/2023</i>	<i>Baini Design</i>
<i>21128 First Floor Plan</i>	<i>10</i>	<i>F</i>	<i>21/06/2023</i>	<i>Baini Design</i>
<i>21128 Roof Plan</i>	<i>11</i>	<i>F</i>	<i>21/06/2023</i>	<i>Baini Design</i>
<i>21128 West and East Elevation</i>	<i>12</i>	<i>F</i>	<i>21/06/2023</i>	<i>Baini Design</i>
<i>21128 North and South Elevation</i>	<i>13</i>	<i>F</i>	<i>21/06/2023</i>	<i>Baini Design</i>
<i>21128 Section A-A and B-B</i>	<i>14</i>	<i>F</i>	<i>21/06/2023</i>	<i>Baini Design</i>
<i>21128 Bathroom Elevations</i>	<i>15</i>	<i>F</i>	<i>21/06/2023</i>	<i>Baini Design</i>
<i>21128 Laundry and Kitchen Elevations</i>	<i>16</i>	<i>F</i>	<i>21/06/2023</i>	<i>Baini Design</i>
<i>21128 Nappy Change Detail</i>	<i>17</i>	<i>F</i>	<i>21/06/2023</i>	<i>Baini Design</i>
<i>21128 Craft Bench Detail</i>	<i>18</i>	<i>F</i>	<i>21/06/2023</i>	<i>Baini Design</i>
<i>21128 Bottle Prep Detail</i>	<i>19</i>	<i>F</i>	<i>21/06/2023</i>	<i>Baini Design</i>
<i>21128 Schedule of Materials</i>	<i>20</i>	<i>F</i>	<i>21/06/2023</i>	<i>Baini Design</i>

21128 Indoor Play Area	23-25	F	21/06/2023	Baini Design
21128 Floor Fencing Plan	26	F	21/06/2023	Baini Design
2021/093 Detailed Survey	1	2	24/04/2023	RAP Surveying
Addendum to Traffic and Parking Statement	-	-	28/02/2023	Hemanote Consultants
Proposed Line Marking and Sign Installation Plans	-	-	10/08/2023	Hemanote Consultants
Statement of Environmental Effects	-	-	24/03/2023	Think Planners Pty Ltd
Acoustic Assessment Ref 15728-401/4	-	-	17/03/2023	RCA Australia
Arboricultural Impact Assessment and Tree Management Plan	-	2	10/02/2023	Horticultural Management Services
Preliminary Site Investigation Report	-	2	06/02/2023	Environmental Consulting Services
Waste Management Plan	-	-	June 2023	Dickens Solutions
Landscape Plan	1-2	-	March 2023	iScope Landscape Architecture

- 2) **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.**
- 3) **To confirm and clarify Council's terms of approval, this consent provides for the operation of a centre-based child care facility, as defined by the Tamworth Regional Local Environmental Plan 2010, with a maximum of 100 children.**
- 4) **All building work must be carried out in accordance with the provisions of the National Construction Code (NCC) and the disability (Access to Premises - Buildings) Standards 2010.**
- 5) **The recommendations contained in the Arboricultural Impact Assessment and Tree Management Plan (dated 10 February 2023), Acoustic Assessment (Dated 17 March 2023) and Preliminary Environmental Site Investigation Report (dated 6**

February 2023) shall be implemented as part of the development approved by this consent.

6) The Applicant shall consult with, as required:

- a) Essential Energy;**
- b) Natural gas company; and**
- c) a telecommunications carrier;**

regarding their requirements for the provision of services to the development and the location of existing services that may be affected by the proposed works, either on site or on the adjacent public road(s).

7) Any existing State Survey Mark or Cadastral Survey Mark shall be preserved during construction and not disturbed unless authority has been obtained from the Surveyor-General in accordance with the Surveyor-General's Direction No. 11 Preservation of Survey Infrastructure published by Spatial Services NSW. In this regard, the Principal Contractor is responsible for the protection of the mark.

Prior to Works Commencing

8) A peg-out survey prepared by a Registered Surveyor is to be submitted to the Principal Certifier to confirm the development can be sited in accordance with approved plans.

9) The approved development which is the subject of this development consent must not be commenced until:

- a) a Construction Certificate for the building work has been issued by the consent authority, Council (if Council is not the consent authority) or an accredited Certifier;**
- b) the person having the benefit of the development consent has:**
 - (i) appointed a Principal Certifier for the building work; and**
 - (ii) notified the Principal Certifier that the person will carry out the building work as an owner-builder, if that is the case;**
- c) the Principal Certifier has, no later than two days before the building work commences:**
 - (i) notified the consent authority and Council (if Council is not the consent authority) of his or her appointment; and**
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work; and**
- d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:**
 - (i) appointed a Principal Contractor for the building work who must be the holder of a contractor license if any residential building work is involved;**
 - (ii) notified the Principal Certifier of any such appointment;**
 - (iii) unless that person is the Principal Contractor, notified the Principal**

Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work; and

- (iv) given at least two days notice to Council of the person's intention to commence the erection of the building.*

- 10) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided:*

- a) must be a standard flushing toilet;*
- b) must be connected to a public sewer; or*
- c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council.*

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

- 11) The applicant must ensure that a sign containing the following information is erected in a prominent position and maintained on the site at all times:*

- a) the name, address and telephone number of the Principal Certifier for the work; and*
- b) the name of the Principal Contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and*
- c) a statement that unauthorised entry to the work site is prohibited.*

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

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

- 13) Erosion and sediment control measures that will minimise damage to and avoid pollution of the environment are required for this development. An erosion and sediment control plan (ESCP) is to be prepared in accordance with the "Blue Book" Managing Urban Stormwater – Soils and Construction (Landcom 2004). The ESCP is to be implemented prior to the commencement of any construction works.*

- 14) A Traffic Management Plan (TMP) detailing how movements in and out of the site during the construction will be adequately managed so as not to adversely impact the safe operation of the road network shall be submitted to Council for approval. This TMP shall consider both vehicular and pedestrian movements. Where the TMP is of a level of complexity that Traffic Guidance Schemes (TGS) are required, the TGS shall be prepared by a person with the applicable certification from Transport for NSW (TfNSW) in accordance with AS1742.3-2009 and the TfNSW current version of the "Traffic Control at Worksites" manual.*

- 15) The applicant shall notify all adjoining residents at least five working days prior*

to the commencement of demolition works. Such notification is to be clearly written, stating the date demolition is to begin. The notification must be placed in the letterbox of every premises (including units, villas if any) either side of and immediately behind the demolition site.

Prior to Issue of a Subdivision Works Certificate

- 16) *Engineering design plans, reports and calculations prepared in accordance with Council's current version of the Engineering Design Minimum Standards for Subdivision and Development as required for stormwater drainage, water and sewer mains shall be submitted to Council for approval prior to Issue of a Subdivision Works Certificate.*

Completed 'Information to be shown on drawings' and 'Checklists' contained within Council's current version of the Engineering Design Minimum Standards for Subdivisions and Developments for each asset category shall be submitted as confirmation that all works are designed in accordance with recognised and accepted guidelines.

Notwithstanding the requirements of the Engineering Design Minimum Standards, the following items shall be addressed as part of the submission at a minimum:

- *extension of Council stormwater infrastructure for the development;*
- *water services sizes and locations;*
- *sewer junctions and new inspection opening location;*
- *a 1.5m wide footpath within the verge fronting the development site;*
- *a safety in design report;*
- *all plans are to include details of the location of all existing utility services;*
- *certification shall be provided in accordance with Annexure A of Council's current version of the Engineering Design Guidelines for Subdivisions and Developments;*
- *an Inspection Test Plan (ITP) for the construction of Council infrastructure required for the development shall be submitted to Council for approval; and*
- *All plans are to include details of the location of all existing utility services.*

Prior to the Issue of a Construction Certificate

- 17) *A Subdivision Works Certificate must be obtained prior to the issue of a Construction Certificate.*
- 18) *Pursuant to Section 68 of the Local Government Act 1993, the following approvals must be obtained:*
- a) *carry out water supply work;*
 - b) *carry out sewer work;*
 - c) *carry out stormwater work (detailed stormwater plans and calculations shall be provided to Council for approval); and*
 - d) *a trade waste agreement.*
-

Engineering drawings for internal water and sewer, and stormwater shall be provided to Council for approval. All plans are to include details of the location of all existing utility services. All engineering drawings and the associated specifications are to be certified by a suitably qualified and experienced design practitioner.

- 19) *A Section 138 approval must be obtained from Council under the Roads Act 1993 for works associated with this development that occur in the Gorman Street, Piper Street, and Johnston Street road reserves. Detailed construction plans shall be provided to Council for approval.*

Advisory Note 1: *To allow for adequate sight visibility and vehicle operations on Gorman Street, “No Stopping” signage will be required for a portion of 6.5m extending both sides of the proposed crossover.*

Advisory Note 2: *Any line marking and/or regulatory signage shown on any plan is required to be reviewed and approved by the Local Traffic Committee prior to approval of any plan(s).*

- 20) *In accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 and the Tamworth Regional Council Section 7.12 (formerly Section 94A) Development Contributions Plan 2013, \$23,187.17 shall be paid to Council to cater for the increased demand for community infrastructure resulting from the development. Note: Please contact Council’s Development Hub on (02) 6767 5507 or Email: development@tamworth.nsw.gov.au to obtain a tax invoice.*

If the contributions are not paid within the financial year that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Development Contributions Plan and the amount payable will be calculated on the basis of the contribution rates applicable at the time of payment in the following manner:

$$\text{\$C}_{PY} = \frac{\text{\$C}_{DC} \times \text{CPI}_{PY}}{\text{CPI}_{DC}}$$

Where:

\\$C_{PY} is the amount of the contribution at the date of Payment;

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

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

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

The monetary contributions shall be paid to Council prior to the issue of the first Construction Certificate.

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

The Tamworth Regional Council Section 7.12 (formerly Section 94A) Development Contributions Plan may be viewed at www.tamworth.nsw.gov.au or a copy may be inspected at Council's Administration Centre during normal business hours.

- 21) *A Compliance Certificate under Section 306 of the Water Management Act 2000 must be obtained from the Council (as the Local Water Supply Authority) prior to the issue of an Occupation Certificate. Council requires the following payments to be made prior to the issue of a Construction Certificate:*

Headworks (Additional)

- Water – \$31,316.22*
- Sewer – \$19,398.60*

Advisory Note – *The above headworks contributions have been adopted under the 2023/2024 Council Annual Operation Plan. Revised rates adopted in subsequent Annual Operation Plans will apply to Headworks Contributions paid in later financial years. Please contact Council's Development Hub on (02) 6767 5507 or Email: development@tamworth.nsw.gov.au to obtain a tax invoice.*

- 22) *The Construction Certificate drawings are to incorporate the acoustic control measures as identified within the Noise Assessment, prepared by RCA Australia (dated 17 March 2023).*
- 23) *Details of all kitchen fixtures, fittings, equipment and their finishes shall be provided to Council for review prior to issue of a Construction Certificate.*
- 24) *A Fire Safety Schedule must be issued with the construction certificate in accordance with Clauses 78 and 79 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 and include proposed fire safety measures pertaining to the entire building. the Fire Safety Schedule should include reference to any Fire Engineering Report that forms part of the construction.*
- 25) *The developer must produce written evidence that an agreement can be put in place with Council's Water and Waste Directorate or a waste collection contractor for the collection of rubbish bins from private property prior to issue of any Construction Certificate.*
- 26) *Prior to the release of the Construction Certificate, a detailed noise management plan (NMP) must be prepared to control and reduce noise pollution during the demolition stage, construction stage and operation of the proposed child care centre. The NMP should be consistent with the Child Care Plan of Management (condition 60). The NMP must adopt and implement the recommendations in the Acoustic Assessment, prepared by RCA Australia (Dated 17 March 2023), in accordance with the ACCC Guidelines.*
- 27) *Prior to the release of the Construction Certificate, a detailed Construction Management Plan must be provided to Council for approval.*

During Construction or Work

General

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

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

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

29) *The Developer shall be responsible to instruct and control their contractors regarding the hours of work. Council will exercise its powers under the Protection of the Environment Operations Act 1997, in the event that the building operations cause noise to emanate from the property on Sundays or Public Holidays or otherwise than between the hours detailed above.*

30) *The footpath and/or road reserve shall not be used for construction purposes or placing of building materials or construction fencing without prior written approval from Council. Approval will only be considered in extreme or highly constrained circumstances.*

31) *Any damage caused to Council infrastructure as a result of works undertaken for the development site shall be rectified by the Developer to the satisfaction of the Council so as to ensure the integrity of Council's infrastructure.*

32) *Any spillage of materials onto Council infrastructure, as a result of delivery or handling for this development, must be removed as soon as practicable by the developer and placed into suitable receptacles for reclamation or disposal in a manner that does not cause pollution of the environment.*

33) *A site rubbish enclosure shall be provided on the site for the period of the proposed construction works.*

34) *The approved Traffic Management Plan (inclusive of any resultant Pedestrian Management Plans and the Traffic Guidance Scheme) shall be implemented and any associated barriers, signage and controls shall be maintained in a functional state at all times.*

35) *Erosion and sediment control measures in accordance with the approved Erosion and Sediment Control Plan (ESCP) are to be maintained by the developer at all times.*

36) *The Developer shall ensure that dust suppression is undertaken to ensure there is no visible dust emitted due to any works associated with the works associated with the development. This can be in the form of constant water spraying or other natural based proprietary dust suppressant, to ensure that dust caused by any vehicles moving in, out or within the development site does not cause a nuisance to surrounding properties.*

Allotment Filling

37) *Any allotment filling that may be required for the development site shall meet the requirements of AS3798 (as amended) – Guidelines on Earthworks for Commercial and Residential Developments*

Stormwater

- 38) *All stormwater discharging from the proposed development site, buildings and works must be conveyed to the existing points of discharge by underground pipe drains complying with AS3500.3 (as amended) to the satisfaction of Council.*
- 39) *The stormwater drainage system must be constructed to comply with the following requirements as a minimum:*
- (i) stormwater detention for the range of 1:1 to 1:100-year ARI events to reduce development flows to predeveloped flows;*
 - (ii) temporary down pipes shall be connected as soon as the roof has been covered so as to not cause a nuisance to adjoining properties;*
 - (iii) all overland surface flow paths must have a practical and satisfactory destination with due consideration to erosion and sediment control during all stages of development. A system to prevent overland flows discharging onto adjoining properties shall be implemented;*
 - (iv) any interruption to the natural overland flow of stormwater drainage which could result in the disruption of amenity, or drainage or deterioration to any other property is not permitted; and*
 - (v) no effluent or polluted water of any type may be allowed to enter the Council's stormwater drainage system.*
- 40) *All major flows shall be directed to the Gorman Street road reserve so as not to impact any adjoining properties.*
- 41) *The approved point of discharge for the development site is Council's kerb inlet pit located downstream on Gorman Street, fronting 5 Gorman Street NORTH TAMWORTH NSW 2340 (Lot 50 in DP 2356).*

Access and Egress

- 42) *The redundant laybacks and crossovers to the site shall be removed and the kerb and gutter reinstated. The verge behind the kerb and gutter shall be rehabilitated to match the adjacent verge with a 1.5m wide footpath and grass established to the satisfaction of Council.*
- 43) *All internal driveways, parking areas, loading bays, vehicle turning areas and barriers are to be designed and constructed to comply with Australian Standard 2890.1 Parking Facilities – Off-street parking and AS2890.6 Parking Facilities – Off-street parking for people with disabilities.*
- 44) *All internal driveways, parking and loading areas must be constructed with a base course of adequate depth to accommodate the design vehicle loading, being sealed with either asphaltic concrete, concrete or interlocking pavers.*
- 45) *To provide for the safety and security of employees and users of the facility, outdoor lighting in accordance with AS1158.3.1 Lighting for roads and public spaces Part 3.1: Pedestrian area (Category P) lighting – performance and design requirements shall be provided to all off-street parking areas. The lighting installed must comply with AS4282 Control of Obtrusive Effects of Outdoor Lighting.*
- 46) *On-site parking accommodation shall be provided for a minimum of 25 vehicles, to ensure the provision of adequate on-site parking facilities commensurate with the demand likely to be generated by the proposed development. Such parking*

must be set out generally in accordance with the details indicated on the submitted plans, except as otherwise stated by the conditions of this consent.

Demolition

- 47) Demolition of existing structures must occur within the provisions of AS2601-2001 “the demolition of structures”. Demolition must occur with suitable best practise methods used to suppress dust and noise nuisance to nearby residential receptors.*
- 48) All services (including water, sewer, electricity and gas) must be effectively discontinued by appropriately qualified tradespersons.*
- 49) Any material not reclaimed for recycling must be disposed of to a licensed landfill facility and documentation retained to demonstrate the disposal location.*
- 50) A portable toilet with appropriate washing facilities will be required on site prior to commencement of demolition. Demolition works involving the removal and disposal of asbestos containing material (ACM) must only be undertaken by contractors who hold an asbestos removal licence and a demolition licence.*
- 51) The demolition site must have a standard commercially manufactured sign containing the words “DANGER ASBESTOS REMOVAL IN PROGRESS” measuring not less than 400mm x 300mm and is to be erected in a prominent visible position on the worksite. The sign must be erected before demolition works commence and must remain in place until such time that all ACM has been removed from the site to an approved waste facility.*
- 52) All asbestos laden waste must be disposed of at a landfill licensed by the NSW Environment Protection Authority (EPA). All disposal receipts must be maintained as evidence of proper disposal.*
- 53) If any chemicals or substances are discovered during the demolition that are identifiable as potentially poisonous and harmful to people, animals, or the environment then Council’s Environmental Health Officers must be notified. Demolition in the area of discovery is to be ceased immediately until a clearance is obtained from Council.*
- 54) All soils and materials, both liquid and solid, removed from the site must be classified by a certified consultant, in accordance with the Protection of the Environment Operations (Waste) Regulation 2014 and related guidelines, in particular the NSW EPA Waste Classification Guidelines, prior to off-site disposal. All waste materials must be disposed of at an appropriately licensed waste facility for the specified waste. Receipts for the disposal of waste must be provided to the Principal Certifier within 30 days of the waste being disposed. All waste must be transported by a licenced contractor without spillage and in accordance with all relevant requirements and standards. All loads must be covered prior to vehicles leaving the site.*

Inspections

- 55) It is required that a Principal Certifier (PC) be appointed to undertake all critical stage inspections as prescribed under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The owner may appoint either Council or an accredited certifier to be the PC.*

Prior to the release of an Occupation Certificate

- 56) *All works, as required by these conditions of consent, shall be completed.*
- 57) *Where detention tanks are utilised, detention tank(s) shall have signage installed to clearly indicate the detention tank purpose. The orifice for the detention tank(s) must be readily accessible and the orifice outlet diameter shall be clearly indicated on the detention tank signage plate.*
- 58) *Certification of the allotment filling shall be provided by a geotechnical testing authority registered under NATA. The testing authority shall be required to certify whether the fill complies with the requirements of AS3798 (as amended).*
- 59) *To ensure that the required Fire Safety Measures are provided in accordance with the building's use and operating in accordance with the appropriate standards, the owner of the building must cause a copy of a Final or Interim fire safety certificate to be given to the person issuing the occupation certificate in accordance with Clause 84 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 for each measure listed in the fire safety schedule. The certificate must only be in the form specified by Clause 86 of the Regulation. A copy of the certificate is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building. Email address for lodgement of Fire Safety Certificate is - firesafety@fire.nsw.gov.au*
- 60) *A Child Care Plan of Management must be developed for the day to day operations of the child care centre and to minimise any adverse effects upon neighbours. The Child Care Plan of Management must include, but be not limited to, the following:*
 - *staffing/parents/children arrival and departure procedures (Drop off and pick up procedures);*
 - *Day to Day Operations Policy;*
 - *Noise Management Plan (prepared as part of Condition 26);*
 - *Traffic and Parking Management Plan to discourage visitor and / or staff car parking on Gorman Street;*
 - *Security and Safety Plan; and*
 - *any requirements of the Education and Care Services National Regulations.*
- 61) *An asbestos clearance certificate must be supplied to the General Manager of Tamworth Regional Council or delegate by an independent licensed asbestos assessor confirming that the site is free from all asbestos upon completion of the demolition. The clearance certificate must be provided prior to the issue of any Occupation Certificate.*
- 62) *Documentary evidence of lodgement of the plan of subdivision with NSW Land Registry Services for the consolidation of Lots 54-56 IN DP2356 and 1 in DP44204, and two separate parcels (Lots 52-53 in DP2356) must be provided to the Principal Certifier prior to issue of any Occupation Certificate.*
- 63) *Prior to the issue of an Occupation Certificate, an identification survey prepared by a Registered Surveyor is to be provided to the Principal Certifier to confirm that the development has been located in accordance with the endorsed plans.*
- 64) *Prior to the issue of an Occupation Certificate, the landscaped areas on the site*

shall be completed as per the endorsed plans.

Prior to the Issue of a Subdivision Certificate

- 65) *A Positive Covenant pursuant to Part 6, Division 4 of the Conveyancing Act 1919 shall be created with registration of the plan of subdivision to nominate that the development (proposed Lot 1) requires detention in accordance with the approved storage volume and discharge rates specified in the stormwater strategy and detailed design. The covenant shall also include details of maintenance responsibilities and schedules. This information shall be submitted to Council prior to issue of a Subdivision Certificate.*
- 66) *Pursuant to Section 306 of the Water Management Act 2000, Council requires the following works to be undertaken prior to the issue of a Compliance Certificate.*

Water

- *a single water service shall be provided to each lot;*
- *the existing water service on Lot 56 may be utilised to service the proposed development (proposed Lot 1);*
- *the developer will be responsible for engaging a hydraulic engineer to determine the fire fighting and domestic demands, and to determine an appropriate service size for the development;*
- *if the existing water service requires upsizing or relocation then the existing service is to be removed and disconnected from the water main;*
- *proposed Lot 2 shall be serviced by a new water service;*
- *works shall be undertaken in accordance with Council's Engineering Design Minimum Standards for Subdivisions and Developments; and*
- *work on live water mains is to be undertaken by Council at full cost to the developer.*

Sewer

- *A single sewer service shall be provided to each lot;*
- *the existing sewer junction in Lot 54 may be utilised to service the proposed development (proposed Lot 1);*
- *the existing sewer junction in Lot 53 may be utilised to facilitate future development on proposed Lot 2;*
- *redundant sewer junctions shall be removed and sewer main reinstated;*
- *an inspection opening shall be installed to the Council sewer main traversing the lot and extended to be flush with the carpark surface. The inspection point shall be near the dead end at the sewer junction servicing 95-99 Johnston Street;*
- *a three (3) metre wide sewer easement shall be created over the Council sewer within the proposed lot;*
- *works shall be undertaken in accordance with Council's Engineering Design Minimum Standards for Subdivisions and Developments; and*

- *work on live sewer mains is to be undertaken by Council at full cost to the developer.*
- 67) *A Certificate of Compliance under Section 307 of the Water Management Act 2000 shall be obtained from the Council (as the Local Water Supply Authority) prior to the issue of a Subdivision Certificate. All payments and works required under Section 306 of the Water Management Act 2000 must be completed prior to the issue of a Certificate of Compliance.*
- 68) *A Maintenance Bond in accordance with the current version of Council's Engineering Design Minimum Standards for Subdivisions and Developments shall be paid to Council for all infrastructure works.*
- 69) *One set of approved construction drawings shall be amended to show the "Work-as-Executed" and be certified by a Registered Surveyor or a Chartered Professional Civil Engineer, in accordance with Council's Engineering Design Minimum Standards.*
- 70) *A scanned electronic 'PDF version and an AutoCAD 'dwg' version of the signed "Work-as-Executed" plans shall be submitted to Council to ensure that adequate records are maintained of community infrastructure.*
- 71) *All test results, material certificates, non-conformance reports and signed off Hold/Witness Points as required by the Inspection and Test Plan (ITP) shall be submitted for the review of Council to verify the quality of the completed product.*
- 72) *Certification of the allotment filling shall be provided by a geotechnical testing authority registered under NATA. The testing authority shall be required to certify whether the fill complies with the requirements of AS3798 (as amended).*
- 73) *Certification being provided that each lot is serviced with telecommunications and electricity infrastructure in accordance with recognised standards.*
- 74) *Easements for utilities and services, in favour of the lots benefiting and/or Council shall be provided where services are located on private properties and/or overland flows traverse private property, in accordance with the current version of Council's Engineering Design Minimum Standards.*

Ongoing Requirements

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

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

- 76) *All outdoor lighting shall be limited to the approved hours of operation for the development.*
- 77) *The Child Care Plan of Management must be adhered to at all times.*
- 78) *All vehicle movements into and out of the development site shall be in a forward direction.*
- 79) *Illuminated outdoor signage is not permitted.*
- 80) *Any signage is subject to a separate approval unless it satisfies the development*

standards and land requirements to be exempt development under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

- 81) *Noise emissions from the ongoing operation of the development shall not exceed the AAAC Guideline base criteria of 45dB LAeq (15 min) for residential receivers, as identified in the Acoustic Assessment prepared by RCA Australia, Dated 17 March 2023.*

Advisory Note: *Daytime - the period from 7am to 6pm Monday to Saturday or 8am to 6pm on Sundays and public holidays.*

A noise validation assessment may be required should Council receive noise related complaints regarding the development, to confirm that the development is meeting the nominated AAAC Guideline base criteria as nominated in the RCA acoustic assessment.

- 82) *The sealing, marking and lighting to all crossovers, vehicular parking, manoeuvring and loading areas is to be maintained at all times.*
- 83) *The landscaped areas on the site shall be maintained at all times.*
- 84) *The construction, fit-out and operation of the food preparation and storage areas must comply with the Food Act 2003.*
- 85) *The child care centre shall comply with the Education and Care Services National Regulations.*
- 86) *The on-site stormwater systems shall be maintained at all times so as to ensure their effective operation for their intended purpose.*
- 87) *Vehicles shall be loaded or unloaded, standing wholly within the development site and within loading zones designated on the submitted plans with the development application, or as otherwise provided in accordance with the conditions of this consent, to ensure that the proposed development does not give rise to street loading or unloading operations with consequential accident potential and reduction in road efficiency. Under no circumstances are vehicles to be loaded or unloaded at the kerb side or across the public footpath.*
- 88) *To ensure that the required parking, loading/unloading facilities and associated driveways are able to function efficiently for their intended purpose, proposed parking areas, service bays, truck docks, driveways, vehicular ramps and turning areas shall be maintained clear of obstruction and be used exclusively for purposes of car parking, loading and unloading, and vehicle access respectively and under no circumstances are such areas to be used for the storage of goods or waste materials.*
- 89) *The waste storage area is to be maintained in a clean and tidy manner at all times.*

Advice Note(s)

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

Note 2: Within each 12 months after completion of the building, the owner of the building must cause Council to be given an annual fire safety statement in accordance with Clause 89 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 for each measure listed in the schedule for the entire building. The statement must only be in the form specified by Clause 92 of the Regulation. A copy of the statement is to be given to the Commissioner of the New South Wales Fire Brigade. Email address for lodgement of Annual Fire Safety Statement - afss@fire.nsw.gov.au and a copy must also be sent to Council development@tamworth.nsw.gov.au

Note 3: At all times, a copy of the Fire Safety Schedule and Fire Safety Certificate must be prominently displayed in the building.

APPLICATION DETAILS:

Application No.	DA2022-0547
Application For:	Demolition of existing structures, allotment consolidation and construction of centre-based child care facility
Date Received:	2 June 2022
Applicant:	Baini Design
Owner:	Mr R Singh and Mrs C Singh
Land/Address:	Lots 52-56 DP 2356 and Lot 1 DP 44204, 7-9 Gorman Street, NORTH TAMWORTH NSW 2340
Zoning:	R1 General Residential - <i>Tamworth Regional Local Environmental Plan 2010</i>

DEVELOPMENT ASSESSMENT SUMMARY

The proposed development involves the demolition of existing buildings and structures, and construction of a two-storey centre-based child care facility. The proposed development also includes an onsite carpark containing 25 spaces, retaining walls, acoustic fencing, subdivision and landscaping. The proposal is a permissible use within the R1 General Residential zone in accordance with the Tamworth Regional Local Environmental Plan 2010 (TRLEP) and meets the zone objectives. The proposed development will be compliant with the relevant NSW planning legislation; State Environmental Planning Policies, the TRLEP and Tamworth Regional Development Control Plan 2010 (DCP).

Traffic

The main issue associated with this Proposal relates to the increase in traffic movements in Gorman Street. This report explains why Council should be satisfied that the likely impacts on the surrounding residences are not unreasonable. Council's technical staff are satisfied that Gorman Street has sufficient capacity to allow additional traffic movements for a child care centre which generates peak traffic demands *only* during the morning and afternoon peak hour periods. For the remainder of the day, over the weekends and on

public holidays, Gorman Street will remain relatively unaffected.

Mitigation measures are also recommended including “No Stopping” and “Give Way” signage within proximity to the driveway and intersections, as well as a pick up/drop off procedures for parents/carers to be implemented as part of the required Child Care Plan of Management.

It is recognised that there is likely to be a noticeable change to Gorman Street for existing users given the current low traffic volumes on the street. However, the additional traffic generation is within the thresholds of a local access street, and the increase in traffic flows along Gorman Street will not exacerbate the existing operational performance of the associated intersections.

Referral to Council

DA2022-0547 has been referred to Council for determination due to the number of submissions that were received during the public consultation periods. Five submissions were received during the initial public exhibition period. An additional 32 submissions and a petition containing nine signatures were received during the re-exhibition period, **ENCLOSED**, refer to **CONFIDENTIAL ENCLOSURE 1**. The issues raised in the submissions have been addressed in this assessment report.

DESCRIPTION OF PROPOSAL

DA2022-0547 seeks development consent for the demolition of existing buildings and structures, and construction of a two-storey centre-based child care facility on Lots 52-56 in DP 2356 and Lot 1 in DP 44204, known as 7-9 Gorman Street, NORTH TAMWORTH NSW 2340. The proposed development also includes an onsite carpark containing 25 spaces, retaining walls, acoustic fencing and landscaping.

The proposed child care centre will accommodate a maximum of 100 children from the ages of 0 – 5 years. The facility will be run by 17 staff with operating hours between 7am to 6pm Monday to Friday (excluding public holidays).

The proposed development also includes the consolidation of the existing allotments and subdivision of the lands to create two new allotments. Proposed Lot 1 will be approximately 1,856.65m² and will contain the proposed centre-based child care facility. Proposed Lot 2 will be approximately 689.35m² and will retain the existing shed. The subject DA does not propose any future development on Proposed Lot 2.

It should be noted that the scope of the proposed development has been amended during the assessment of DA2022-0547, following concerns raised in the initial submissions and by Council’s technical staff. The medical centre component has been removed from the proposal. The child care centre capacity has also reduced from 105 to 100 places and the onsite carpark has increased from 21 to 25 spaces. These amendments were re-exhibited from 18 April until 12 May 2023.

The submitted plans are **ATTACHED** to this report as **ANNEXURE 1**.

REFERRALS

The Development Application was referred internally to Council’s Development Engineering, Environmental Health and Building Certification Divisions. No objections were raised subject to the imposition of recommended conditions as part of any forthcoming development approval.

SUBJECT SITE AND LOCALITY MAP

The subject site is identified as Lots 52-56 in DP 2356 and Lot 1 in DP 44204, 7-9 Gorman Street, NORTH TAMWORTH NSW 2340. The allotments have a combined area of approximately 2,546m². The site is currently improved with an existing dwelling, sheds and several mature trees.

The site is located within an older residential area on the eastern side of Gorman Street, approximately 65m south of the intersection of Johnston Street and Gorman Street, North Tamworth (refer to **Figure 1**). The site is surrounded by older style residential buildings to the south and east, including flats, and a town house development to the west.



Figure 1. Aerial map of the subject lands.

The development site is also within close proximity of Tamworth Hospital, Tamara Private Hospital, Tamworth Correctional Centre and Tamworth Town Centre. A local bus stop with services to Tamworth, East Tamworth and Oxley Vale is available within a 170m walking radius from the development site.

ASSESSMENT REPORT

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

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021:

Chapter 2 of the Biodiversity and Conservation SEPP seeks to protect the biodiversity and amenity values of trees and other vegetation in non-rural areas. The proposal seeks to remove the majority of trees on the subject land and is supported by an Arboricultural Impact Assessment and Tree Management Plan, prepared by Horticultural Management Services (dated 10 February 2023).

The trees on the subject land were assessed as having a low – medium retention value and nil – low ecological and landscape value, with one tree identified as being dead. Of the 22 trees identified on site, three will be retained. No habitat or hollows were observed in the 19 trees recommended to be removed. Trees on adjoining properties will be unaffected by the proposed works.

The Arboricultural Impact Assessment and Tree Management Plan contains recommendations for works near and within trees on the subject site. These recommendations are included in the recommended conditions of consent. Furthermore, the submitted Landscape Plan includes a number of smaller plants and shrubs, as well as 19 replacement trees to be planted. The types of tree species include *Rough Barked Apple*, *Tuckeroo*, *Manchurian Pear*.

State Environmental Planning Policy (Industry and Employment) 2021:

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

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

The proposal meets the prescribed development controls having regard to the provision of indoor and outdoor play spaces. Further, the proposed design of the child care facility is consistent with the requirements of the *Child Care Planning Guideline* and the *Education and Care Services National Regulations 2012 (National Regulations)*.

State Environmental Planning Policy (Resilience and Hazards) 2021:

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

A Preliminary Environmental Site Investigation Report prepared by Environmental Consulting Services was submitted with the application and has been reviewed by Council's Senior Environmental Health Officer. The Report found that concentrations of contaminants of concern are below the site assessment criteria and reporting level. The Report concludes that the site is suitable for the proposed development subject to recommended conditions to address potential asbestos materials and an unexpected finds protocol. These recommendations have been incorporated into the recommended conditions of consent.

Tamworth Regional Local Environmental Plan 2010:

The proposed development is consistent with the Aims of the *Tamworth Regional Local Environmental Plan 2010 (TRLEP)* as follows;

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

The subject lands are zoned R1 General Residential under the provisions of the TRLEP. The objectives of the R1 General Residential zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

It is considered that the construction and operation of a centre-based child care facility will provide services that meet the day to day needs of residents in North Tamworth.

A 'centre-based child care facility' is a type of development that is permissible with consent in the R1 zone.

Development consent has been sought as a part of the subject Development Application for demolition works and subdivision of the lands, thereby satisfying Clause 2.7 and Clause 2.6 of the TRLEP. Proposed Lots 1 and 2 meet the prescribed Minimum Lot Size (600m²) for the R1 zone and will therefore achieve compliance with Clause 4.1(3) of the TRLEP.

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

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

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

Tamworth Regional Development Control Plan 2010:

An assessment against the relevant provisions under the 'Commercial and Retail' and 'Subdivision' Chapters in the *Tamworth Regional Council Development Control Plan 2010* (DCP) is presented in **Table 1** and **Table 2** below:

Table 1. Assessment against Commercial and Retail DCP provisions.

Commercial and Retail Controls	
Provision	Comment
Building setbacks	The proposed child care facility has a front setback of 4.5m to Gorman St and generous side setbacks to both the ground and first floor (8.2m to northern side boundary and 18.9m from western side boundary from the primary building line) and a setback of 5.4m to its eastern boundary. The proposed development complies with the DCP requirement for setbacks.
Waste management	The proposed development is accompanied by a Waste Management Plan that provides for the safe storage and effective collection of waste generated by the ongoing use of the proposed centre-based child care facility.
Utility Infrastructure	The proposed development will not create a substantial demand on existing utility infrastructure.
Traffic impacts	<p>The at-grade car parking area of the child care facility has been designed to permit vehicles to enter and exit the site in a forward direction. The car parking area has been designed to minimise conflict between pedestrian, customer vehicles and delivery vehicles. This includes direct pedestrian access to the child care facility from Gorman Street.</p> <p>Due to the nature of the proposed use being, "child care facility", no specific loading areas are required to be provided. The designated car parking area provides parking spaces for vehicles including vans.</p>

	<p>Driveways have been designed to comply with AS 2890.1 Parking Facilities.</p> <p>All traffic will enter and exit the site in a forward direction.</p> <p>A 1.5m wide footpath within the verge fronting the development site is required to be provided in accordance with this Part of the DCP. This forms a recommended condition of consent.</p> <p>Traffic Impacts are discussed in more detail later in this report.</p>
Carparking	<p>The proposed child care centre will have 17 staff members at full occupancy, servicing 100 child care places. The proposed child care development has 25 car spaces on the basis of one per four children. This is in excess of the one per five children requirement identified in the <i>Tamworth Regional Development Control Plan 2010</i>.</p> <p>Further commentary on carparking is provided later in this report.</p>
Outdoor Lighting	<p>A condition will be implemented within the development consent which requires all associated outdoor lighting to comply with the relevant Australian Standard.</p>
Outdoor Signage	<p>Nil proposed.</p>
Landscaping	<p>Landscaping or shade structures shall be provided in outdoor car parking areas where greater than 10 spaces are required, to provide shading and soften the visual impact of large hard surfaces. The proposed landscaping plan provides such shade within the proposed child care centre car park.</p> <p>Furthermore, A detailed Landscape Plan has been submitted which includes a number of small plants and shrubs, and 19 replacement trees to be planted. The types of tree species include <i>Rough Barked Apple, Tuckeroo, Manchurian Pear</i>.</p>

Table 2. Assessment against Subdivision DCP provisions.

Subdivision Controls	
Provision	Comment
Servicing	<p>The proposed allotments are capable of being serviced by Council's reticulated water and sewer infrastructure. Certification will need to be provided prior to the issue of a Subdivision Certificate to confirm that telecommunications and electricity services are available to each allotment. This requirement forms a recommended condition of consent.</p>
Stormwater	<p>On-site detention is required for proposed Lot 1 to reduce developed flows to predeveloped flows.</p>

Lot size	The proposed allotments will comply with the prescribed minimum lot size, being 600m ² , for the R1 zone.
Site access	The proposed allotments will retain access to Gorman Street, which is a public road.

Development Contributions and Headworks

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

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

Not applicable.

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

A recommended condition of consent requires demolition works to be carried out in accordance with AS2601 – 2001: *The Demolition of Structures*, thereby satisfying Clause 61(1) of the Regulation.

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

Context and Setting

The subject site is located in an established residential area that consists of both single and two storey residential dwellings. The proposed two storey child care centre is consistent with the scale, design and amenity of other neighbouring development. The development incorporates architectural features and articulation to provide a contemporary two storey-built form that appropriately addresses Gorman Street.

Site Design and Internal Layout

The proposed centre-based child care facility has been designed in accordance with the design criteria outlined in the Child Care Planning Guidelines. The internal areas will include:

- six indoor play rooms over two levels;
- sleeping rooms;
- administrative areas including staff rooms and offices;
- kitchen;
- laundry;
- storerooms; and
- amenities.

The facility will also accommodate two outdoor play areas over two levels.

The purpose built 'Child Care Facility' will operate with a maximum capacity of 100 places with the following age groups:

- 0-2 years: 20 places;

- 2-3 years: 35 places; and
- 3-5 years: 45 places.

The unencumbered indoor play area for the 0-2 and 3-5 age group and outdoor play area is located on the ground floor. The unencumbered indoor play area associated with the 2-3 age group and outdoor play area and the administration areas will be located on the first floor. The facility provides a total of 333m² or 3.33m² of unencumbered indoor play area per child and 735m² or 7.35m² of unencumbered outdoor play area per child.

The proposed centre-based child care facility has been designed to accord with the overarching design criteria outlined in the Child Care Planning Guidelines as follows:

- the design responds to the context of the surrounding area by proposing an attractive and large two storey-built form appropriate with the established residential area;
- appropriate landscape embellishment works to ensure that the landscape character of the site and immediate locality is respected;
- the proposed built form has been designed commensurate with the existing two storey residential character of the immediate locality;
- the proposed learning spaces provide a good mix of inclusive learning space for all students; and
- the development can deliver sustainable design features including natural ventilation and access to natural light to ensure artificial cooling and heating is minimised.

Access, Transport and Traffic

The Traffic Report accompanying the Development Application quantified potential impacts on the surrounding land uses and demonstrated how impacts on amenity will be minimised. It concluded that the development will not result in unacceptable traffic and parking impacts on the amenity of neighbouring properties.

Council's technical staff also carried out traffic counts and based on findings were satisfied that the increased volume of traffic on Gorman Street as a result of the proposed development is not unreasonable and is within the available capacity limits for the type of street.

The Applicants' Traffic Report assessed existing traffic conditions on Gorman Street and its intersections with Piper Street and Johnston Street. This report was based on a traffic survey carried out by the Applicants' traffic consultant in November 2021, which recorded a.m. and p.m. peak traffic flows along Gorman Street in the order of 126 vehicles per hour (vph) and 110 vph, respectively.

Observations of traffic on Gorman Street during a number of visits to the area by Council staff were inconsistent with the traffic report. As such, Council conducted traffic counts between Friday, 21 October to Thursday, 3 November 2022 for confirmation, and the traffic counts obtained by Council were significantly less than the Applicants' report, as tabulated below:

Gorman Street (North of Piper Street)

Peaks, Both Directions (By Day)										
	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Weekday	Weekend	All Days
AM Peak	25	22	25	23	23	15	19	23	16	19
	0800	0800	0800	0800	0800	1100	1000	0800	1000	0800
PM Peak	23	23	24	27	24	16	20	20	18	17
	1500	1300	1200	1500	1500	1200	1200	1500	1200	1500
Day Peak	25	23	25	27	24	16	20	23	18	19
	0800	1300	0800	1500	1500	1200	1200	0800	1200	0800

Gorman Street (South of Johnston Street)

Peaks, Both Directions (By Day)										
	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Weekday	Weekend	All Days
AM Peak	23	16	20	18	19	14	15	19	12	15
	0800	0800	0800	0800	0800	1100	1000	0800	1100	0800
PM Peak	19	19	16	23	20	11	15	17	12	14
	1500	1300	1700	1500	1500	1700	1200	1500	1200	1500
Day Peak	23	19	20	23	20	14	15	19	12	15
	0800	1300	0800	1500	1500	1100	1000	0800	1200	0800

Note: Trip behaviours of the residents and visitors parking in Gorman Street account for differing peaks in both directions at the same recorded AM/PM peak times.

Council's recorded traffic flows measured a morning peak of 25 vph between 8-9 a.m., and a p.m. peak of 27 vph between 3-4 p.m. on a typical weekday. Given the discrepancy, a further manual survey was undertaken by staff on Monday, 5 June 2023, which counted 28 vph between 8-9 a.m. and 26 vph between 3-4 p.m.

The Applicants traffic report assesses that the surrounding street network and intersections currently operate at Level of Service (LoS) "A", which is to say – free flowing with minimal delays – well below threshold capacities. In this case, the relevant level of service indicators are prescribed by the RTA Guide to Traffic Generating Developments – 2002 (Refer to the following Tables 4.6 and 4.2 below):

Table 4.6 Environmental capacity performance standards on residential streets			
Road class	Road type	Maximum Speed (km/hr)	Maximum peak hour volume (veh/hr)
Local	Access way	25	100
	Street	40	200 environmental goal
			300 maximum
Collector	Street	50	300 environmental goal
			500 maximum

Note: Maximum speed relates to the appropriate design maximum speeds in new residential developments. In existing areas maximum speed relates to 85th percentile speed.

Level of Service	Average Delay per Vehicle (secs/veh)	Traffic Signals, Roundabout	Give Way & Stop Signs
A	< 14	Good operation	Good operation
B	15 to 28	Good with acceptable delays & spare capacity	Acceptable delays & spare capacity
C	29 to 42	Satisfactory	Satisfactory, but accident study required
D	43 to 56	Operating near capacity	Near capacity & accident study required
E	57 to 70	At capacity; at signals, incidents will cause excessive delays Roundabouts require other control mode	At capacity, requires other control mode

Table 4.2: Level of Service Criteria for intersections (RMS Guide)

Gorman Street is a Local Street as classified in Table 2-B of Council's Engineering Design Minimum Standards and as defined by the RTA Guide to Traffic Generating Developments. The RTA Guide suggests Gorman Street has an environmental goal of 200 vph.

A post-development estimate of Gorman Street traffic volumes is provided below based on an assessment by Council's Engineering staff. Council has adopted more conservative trip generation rates than the RTA Guide, using 0.90 peak vehicle trips per child for the morning peak hour, and 0.85 peak vehicle trips per child for the afternoon peak hour.

GORMAN STREET – POST DEVELOPMENT TRAFFIC VOLUMES	AM Peak (vph) 8.00 a.m. – 9.00 a.m.	PM Peak (vph) 3.00 p.m. – 4.00 p.m.
Council review - Existing peak	25	27
Council review - Existing peak plus proposed development	115	112

The assessment concluded that Gorman Street and its associated intersections would continue to operate at LoS A. Council's review concluded that Gorman Street would continue to meet the 200 vph environmental goal for 'Local Streets'.

Furthermore, the applicants' Traffic Report suggested that left-in/left-out movements for the site could be implemented. However, the review by Council's Engineering staff concluded that there is generally poor compliance in situations without a central median and, given the pre and post development traffic volumes, would make Gorman Street a quasi-one-way street. A more balanced two-way traffic movement is preferable for existing residents that would make up the existing traffic flow, and also a better outcome for the wider road network with more direct trip routes to the development.

It was also noted that visitors to the development will be regular users and will therefore be likely to adjust their approach direction to suit any real or perceived delayed turn movement.

It is recognised that there is likely to be a noticeable change to Gorman Street for existing users given the current low traffic volumes on the street. However, the additional traffic generation is within the thresholds of a local access street, and the increase in traffic flows along Gorman Street will not exacerbate the existing operational performance of the associated intersections. It is noted that any future development proposed for the remaining vacant lot would need to consider the suitability for the area, and amenity and safety of residents and road users.

Car Parking

Given the existing 8m road width, the optimal level of service for Gorman Street is achieved with limited vehicles parked on-street. For this reason, the proposed child care centre provides 25 car spaces, at a rate of 1 per 4 children, which is in excess of Council's DCP requirement of 1 per 5 children.

This is coupled with an operational management plan to provide dedicated visitor car spaces and discourage on-street parking by employees and visitors.

Additional measures to prevent bottlenecks and hazards along Gorman Street and its associated intersections have been requested by Council's Development Engineering team and endorsed by the Local Traffic Committee, including:

- intersection treatment at Johnston Street and Piper Street, and
- provision of "No Stopping" and "Give Way" signage within proximity to the driveway and intersections.

In combination, the above measures are designed to improve sight distances and vehicle movements at the site entry and the Gorman Street intersections by enabling separate queuing for left and right turn passenger vehicle movements.

Views and Visual Impact

The most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by building height, setbacks and landscaping. The proposed development achieves consistency with adjoining and adjacent setbacks established in the residential street. The dominance of the proposed development over the low-density residential environment is mitigated by substantial landscaping. The visual impact of the proposed development is further mitigated by articulation of all elevations to reduce dominance.

Privacy (Aural and Visual)

The design scheme has undertaken a considered effort to minimise adverse impacts on neighbouring properties in terms of privacy and acoustic impacts. This is achieved by the siting and orientation of the proposed two storey building with generous side setbacks especially to a residential property to the site's northern boundary and minimising window openings. The development will also be required to incorporate acoustic treatments (e.g. solid fencing) in accordance with the Acoustic Report which will contribute towards mitigating potential noise impacts to adjoining properties.

Public Domain

The proposed development will not substantially impact any public domain views.

Heritage

The subject land is not within a Heritage Conservation area nor is it located near any local or state items of heritage significance. There are no known Indigenous items located on, or adjoining, the site.

Sewer

The proposed plans show the child care centre carpark area over a sewer main. However, the site levels ensure minimum cover requirements can be achieved, including for the proposed retaining wall to be built over the sewer main.

Drainage

On site detention will be required for the proposed child care centre (Proposed Lot 1). Stormwater drainage designs will need to be submitted prior to the release of a Subdivision Works Certificate, which forms a recommended condition of consent.

Waste

The proposed development is accompanied by a Waste Management Plan that provides for the safe storage and effective collection of waste generated by the ongoing use of the proposed centre-based child care facility.

Natural Hazards

The subject land is not identified as being liable to inundation by flooding or prone to bushfire hazards. No other natural hazards are known to affect the site.

Energy

The proposed development is designed to maximise solar access opportunities and energy efficiencies.

Noise and Vibration

The proposed development is supported by an Acoustic Assessment (May 2022) by RCA Australia. The proposal was assessed against the AAAC Guideline for Child Care Acoustic Assessment and the Noise Policy for Industry and was found to be compliant.

Safety, Security and Crime Prevention

The proposed centre-based child care facility adopts Crime Prevention through Environmental Design principles, ensuring territorial reinforcement and casual surveillance opportunities.

Social Impact

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

Economic Impact

The proposed development is likely to result in a positive economic impact in the locality through both the provision of employment and appropriate child care arrangements for residents to enable employment uptake.

Cumulative Impacts

The cumulative impacts of the proposed development have been assessed and are not considered to be substantial.

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

The subject site is considered suitable for the proposed development. The site is zoned R1 General Residential wherein a centre-based child care facility is permitted with consent. Conditions have been included in the recommended conditions of consent in order to mitigate impacts on neighbouring properties.

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

The Development Application was publicly exhibited from 24 June 2022 until 15 July 2022. Five submissions were received by Council during this period.

The DA was re-exhibited from 18 April until 12 May 2023 following substantial amendments to the proposed development including the removal of the medical centre component of the original proposal. A total of 32 submissions and a petition containing nine signatures were received during this period. One of the petitioners also submitted an individual objection.

The issues raised in the submissions (including some that relate to the removed medical centre component) are considered in **Table 3** below.

Table 3. Response to the issues raised in the submissions.

Issue	Response
Traffic, Parking and Safety Concern is raised that the proposal will result in adverse traffic and parking issues. The submissions state that Gorman Street is too narrow (8m wide) and there is limited visibility at the Gorman Street / Johnston Street and Gorman Street / Piper Street intersections.	Council's Development Engineering Division has reviewed the Traffic Report accompanying the DA and the concerns raised in the submissions. The Division notes that the proposed development is not expected to alter the current levels of service for the two nearby road intersections and that the peak traffic flows generated by the proposed development are within the capacity of Gorman Street. Additionally, the proposed development will include an onsite carpark containing 25 spaces, which is in excess of Council's DCP requirement. The driveway crossover width to the entrance / exit to the site has also been widened in order to accommodate the swept path for a B99 vehicle. A "B99" vehicle means the 99 th percentile vehicle, including hi-lux as an example. What it means is that the driveway crossover is adequate for the turning circle (swept path) of current larger model vehicles to manoeuvre in and out of the driveway without needing to cross the centre line of the road.

	<p>Council's Development Engineering Division has also made the following recommendations to address the submitter's concerns:</p> <ul style="list-style-type: none"> • provision of "no stopping" signs within proximity to the driveway to the subject site. This has been conditionally endorsed by the Local Traffic Committee at its meeting held on 2 August, 2023; • provision of "no stopping" and "give way" signs, and line marking on the road intersections between Gorman Street / Johnston Street and Gorman Street / Piper Street. This has been conditionally endorsed by the Local Traffic Committee at its meeting held on 2 August, 2023; and, • an ongoing use condition to discourage visitor and / or staff parking on Gorman Street as a part of an Operational Management Plan.
<p>Amenity (Visual and Noise)</p> <p>Concern is raised that the proposed development will result in adverse visual and noise impacts.</p>	<p>It is considered that the visual impacts of the proposed development will not be unreasonable subject to mitigation. Privacy issues (i.e., overlooking) will be mitigated via raised sill windows and privacy screens.</p> <p>Operational and traffic noise levels are predicted to comply with the AAAC guideline for assessing noise from child care centres and is therefore considered to be acceptable. Recommended conditions of consent require a noise management plan to be implemented to mitigate noise impacts from construction activities. Further, the development is required to comply with the AAAC Guideline base criteria during operations.</p>
<p>Suitability of the Site</p> <p>Concern is raised that the proposal constitutes commercial development, which is prohibited in the R1 zone. The site is also considered to be unsuitable for the proposal due to traffic, safety, noise and amenity impacts.</p>	<p>The site is zoned R1 General Residential wherein the proposed development, being a centre-based child care facility, is permitted with consent. Conditions have been included in the recommended conditions of consent to address noise, traffic, visual and safety issues in order to mitigate impacts on neighbouring properties.</p> <p>The original proposal to include a medical centre has been removed from the development application and therefore any concerns regarding the medical centre are resolved.</p>
<p>Inconsistency with the R1 General Residential zone objectives</p> <p>Concern is raised that the proposed development is not consistent with the R1 zone objectives.</p>	<p>The objectives of the R1 General Residential zone are:</p> <ul style="list-style-type: none"> • <i>To provide for the housing needs of the community.</i> • <i>To provide for a variety of housing types and densities.</i> • <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> <p>It is considered the construction and operation of a centre-based child care facility will provide services that meet the day</p>

	to day needs of residents in North Tamworth.
Overshadowing <p>Concern is raised that the proposed development will result in adverse overshadowing impacts.</p>	<p>The proposed development is supported by shadow diagrams indicating minimal impact on adjoining properties due to the generous setbacks. Adjoining properties are able to access adequate solar access to their living and outdoor areas.</p>
Vegetation Removal <p>Concern is raised that the proposed development will remove native trees from the site and impact Australian fauna.</p>	<p>An Arboricultural Impact Assessment and Tree Management Plan, prepared by Horticultural Management Services (dated 10 February 2023) has been submitted with the subject DA. The trees on the subject land were assessed as having a low – medium retention value and nil – low ecological and landscape value, with one tree identified as being dead. Of the 22 trees identified on site, three will be retained. No habitat or hollows were observed in the 19 trees recommended to be removed. Trees on adjoining properties will be unaffected by the proposed works.</p>
Construction Impacts <p>Concern is raised that the proposed development will result in adverse construction impacts, including but not limited to: traffic, noise, dust and asbestos.</p>	<p>The Applicant will be required to prepare a detailed Construction Management Plan and Noise Management Plan prior to the issue of a Construction Certificate, and a Traffic Management Plan prior to the commencement of works, as per the recommended conditions of consent. All construction and demolition works must be undertaken during the prescribed hours and limit impacts from noise and dust on the adjoining properties. Further, conditions have been included in the consent to ensure the correct handling and disposal of any asbestos waste.</p>
Property values <p>Concern is raised regarding the devaluation of property values due to increased noise and traffic in the area.</p>	<p>Impacts on the value of surrounding properties are not a planning-based consideration in the assessment of a DA. It is considered that adequate mitigation measures will be implemented as part of the development such that no unreasonable impacts are likely to adjoining properties/the locality. The proposal also constitutes permissible development (with consent) in the subject R1 General Residential zone.</p>
Utilities <p>Concern is raised regarding the impact of the development on water and sewerage.</p>	<p>The proposed development is not expected to place a substantial demand on existing utility provision in the locality. The Applicant will be required to provide water and sewer services to cater for the needs of the proposed development. Additionally, engineering design plans, calculations and reports for the proposal will need to be submitted to Council for approval prior to the issue of a Subdivision Works Certificate, which forms a recommended condition of consent.</p>

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

Public interest concerns whether or not the broader community interest is served by the approval of the development. The public interest has been considered as a part of the assessment of DA2022-0547. The provision of accessible, affordable and adequate child care facilities within the residential community is considered responsive to the public interest.

(a) Policy Implications

The development is a permissible use within the R1 zone, meets the objectives of the zone and complies with Council's Development Control Plan provisions.

(b) Financial Implications

Nil

(c) Legal Implications

Nil

(d) Community Consultation

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

(e) Reason for Consideration by Council

Focus Area 2 – A Liveable Built Environment.

CONCLUSION

This report provides an assessment of the development with regard to all relevant matters listed under Section 4.15 of the *Environmental Planning and Assessment Act 1979* and issues raised in the public submissions. The proposed development is consistent with the applicable environmental planning instruments. The issues raised in the submissions have been addressed and the likely impacts of the proposal are considered to be acceptable subject to the imposition of appropriate conditions of development consent. It is therefore recommended that Council approve DA2022-0547 subject to the recommended conditions of development consent.

8 INFRASTRUCTURE AND SERVICES

8.1 FUNDING CONTRIBUTION TO THE COST OF HOSTING THE 2024 MURRAY DARLING ASSOCIATION CONFERENCE AND ANNUAL GENERAL MEETING

DIRECTORATE: WATER AND WASTE
AUTHOR: Bruce Logan, Director - Water and Waste

RECOMMENDATION

That in relation to the report “Funding contribution to the cost of hosting the 2024 Murray Darling Association Conference and Annual General Meeting”, Council;

- (i) agree to make available up to \$10,000 in kind and direct financial support to host the 2024 Murray Darling Association Conference and Annual General Meeting in Tamworth, should Council’s application to host the event be successful; and*
- (ii) fund Council’s contribution equally from the water and wastewater reserves.*

SUMMARY

Council has applied to host the 2024 Murray Darling Association conference and annual general meeting. The purpose of this report is to seek approval from Council for funding to offset costs associated with hosting this event, if Council's application is successful.

COMMENTARY

At its meeting on 11 October 2022, Council agreed to join the Murray Darling Association. The Murray Darling Association (MDA) was formed in 1944 as the Murray Valley Development League. It is an association of 70 Local Government areas along with community groups, businesses and individuals with an interest in ensuring that the Murray-Darling Basin continues as a viable and valuable asset for all.

The Association’s headquarters are in Echuca, Victoria and is a non-government organisation across state boundaries which strives to represents the views, aspirations and concerns of the large number of people living in the Murray-Darling Basin.

The Mayor and Director of Water and Waste attended the 2022 MDA Conference and Annual General Meeting as observers, prior to Council considering whether or not to join. One of the primary reasons it was considered beneficial for Council to join was that there appears to be concentration on Southern basin issues rather than those affecting Northern basin councils.

Council is part of Region 11 of the MDA. The table below shows the member councils of region 11.

Region 11: 15 Councils – 9 Members			
Gunnedah Shire Council	Brewarrina Shire Council	Gwydir Shire Council	Coonamble Shire Council
Walgett Shire Council	Glenn Innes Severn Council	Liverpool Plains Shire Council	Tenterfield Shire Council
Tamworth Regional Council			

The Chair of Region 11 is Councillor Jamie Chaffey, Mayor of Gunnedah Shire Council. Councillor Chaffey has been actively promoting the MDA amongst other councils in Region 11 and generally in the Northern part of the basin.

It is understood the Annual Conference and Annual General Meeting of the MDA has never been held in the north of the basin and in any case, it is considered that hosting the venue in the North will encourage greater participation from Northern basin Councils and allow Northern basin issues to be promoted.

Accordingly, following discussion with the Mayor, Councillor Webb and Councillor Chaffey, an application was submitted to the MDA for Tamworth to host the 2024 Conference and Annual General Meeting. Council will be advised whether its application has been successful at the 2023 AGM to be held in Murray Bridge, South Australia between 25 and 29 September 2023. The Mayor will attend this conference.

As part of the application, Council was required to nominate whether Council would be prepared to provide funding and/or in-kind support to offset the costs of running the conference. Council's application included that Council would contribute up to \$10,000 from in-kind and direct financial contribution towards the event if Council's application was successful.

There is no funding available on the current Water and Wastewater budgets to fund this contribution. As a result, the purpose of this report is to seek Council approval to make the nominated funding available in the event Council's application is successful. Should Council not agree to make the funding available then Council's hosting application will be withdrawn.

Should Council's application be successful then dates and venue information for the 2024 conference will be finalised with the assistance of the Association. Previous conferences have attracted around 150 delegates.

(a) Policy Implications

Nil

(b) Financial Implications

There is no funding available on the current Water and Wastewater budget to fund this contribution. As a result, the purpose of this report is to seek Council approval to make up to \$10,000 available, sourced equally from the Water and Wastewater funds in the event Council's application is successful.

(c) Legal Implications

Nil

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

Focus Area 1 – Our water security

9 GOVERNANCE, STRATEGY AND FINANCE

9.1 RETURNING OFFICER

DIRECTORATE: OFFICE OF THE GENERAL MANAGER
AUTHOR: Tracey Carr, Coordinator - Governance and Executive Services

RECOMMENDATION

That the advice in relation to the role of the Returning Officer for any election required for the position of Mayor and Deputy Mayor be received and noted and the General Manager act as the Returning Officer.

SUMMARY

The purpose of this report is to advise Council that the General Manager will be the Returning Officer.

COMMENTARY

Schedule 7 of the *Local Government (General) Regulation 2021* states that the General Manager (or a person appointed by the General Manager) will act as the Returning Officer for any election required to elect the Mayor and Deputy Mayor.

(a) Policy Implications

Nil

(b) Financial Implications

Nil

(c) Legal Implications

Schedule 7 of the *Local Government (General) Regulation 2021* provides that the General Manager (or a person appointed by the General Manager) is the Returning Officer. Consequently, the General Manager will conduct any election required for the position of Mayor and Deputy Mayor.

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

Focus Area 9 – Open and collaborative leadership.

9.2 METHOD OF VOTING

DIRECTORATE: OFFICE OF THE GENERAL MANAGER
AUTHOR: Tracey Carr, Coordinator - Governance and Executive Services

RECOMMENDATION

That the advice in relation to the methods of voting for any election required for the position of Mayor and Deputy Mayor be received and noted.

SUMMARY

The purpose of this report is to inform the Council of the provisions of Schedule 7 of the *Local Government (General) Regulation 2021* for any election required to elect the Mayor and Deputy Mayor.

COMMENTARY

The procedures for the election of the Mayor and the Deputy Mayor are as follows:

Schedule 7 Election of mayor by councillors

Part 1 Preliminary

1 Returning Officer

The General Manager (or a person appointed by the General Manager) is the Returning Officer.

2 Nomination

- (1) A Councillor may be nominated without notice for election as Mayor or Deputy Mayor.
- (2) The nomination is to be made in writing by two or more Councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.
- (3) The nomination is to be delivered or sent to the Returning Officer.
- (4) The Returning Officer is to announce the names of the nominees at the Council Meeting at which the election is to be held.

3 Election

- (1) If only one Councillor is nominated, that Councillor is elected.
- (2) If more than one Councillor is nominated, Council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.
- (3) The election is to be held at the Council Meeting at which Council resolves on the method of voting.
- (4) In this clause:
 “ballot” has its normal meaning of secret ballot.
 “open voting” means voting by a show of hands or similar means.

Part 2 Ordinary ballot or open voting

4 Application of Part

This Part applies if the election proceeds by ordinary ballot or by open voting.

5 Marking of ballot-papers

- (1) If the election proceeds by ordinary ballot, the Returning Officer is to decide the manner in which votes are to be marked on the ballot-papers.
- (2) The formality of a ballot-paper under this Part must be determined in accordance with clause 345 of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper must be rejected at the count.

6 Count—2 candidates

- (1) If there are only two candidates, the candidate with the higher number of votes is elected.
- (2) If there are only two candidates and they are tied, the one elected is to be chosen by lot.

7 Count—3 or more candidates

- (1) If there are three or more candidates, the one with the lowest number of votes is to be excluded.
- (2) If three or more candidates then remain, a further vote is to be taken of those candidates and the one with the lowest number of votes from that further vote is to be excluded.
- (3) If, after that, three or more candidates still remain, the procedure set out in subclause (2) is to be repeated until only two candidates remain.
- (4) A further vote is to be taken of the two remaining candidates.
- (5) Clause 6 of this Schedule then applies to the determination of the election as if the two remaining candidates had been the only candidates.
- (6) If at any stage during a count under subclause (1) or (2), two or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

Part 3 Preferential ballot

8 Application of Part

This Part applies if the election proceeds by preferential ballot.

9 Ballot-papers and voting

- (1) The ballot-papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the numbers “1”, “2” and so on against the various names so as to indicate the order of their preference for all the candidates.
- (2) The formality of a ballot-paper under this Part is to be determined in accordance with clause 345 of this Regulation as if it were a ballot-paper referred to in that clause.

- (3) An informal ballot-paper must be rejected at the count.

10 Count

- (1) If a candidate has an absolute majority of first preference votes, that candidate is elected.
- (2) If not, the candidate with the lowest number of first preference votes is excluded and the votes on the unexhausted ballot-papers counted to him or her are transferred to the candidates with second preferences on those ballot-papers.
- (3) A candidate who then has an absolute majority of votes is elected, but, if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the lowest number of votes and counting each of his or her unexhausted ballot-papers to the candidates remaining in the election next in order of the voter's preference is repeated until one candidate has received an absolute majority of votes. The latter is elected.
- (4) In this clause, absolute majority, in relation to votes, means a number that is more than one-half of the number of unexhausted formal ballot-papers.

11 Tied candidates

- (1) If, on any count of votes, there are two candidates in, or remaining in, the election and the numbers of votes cast for the two candidates are equal—the candidate whose name is first chosen by lot is taken to have received an absolute majority of votes and is therefore taken to be elected.
- (2) If, on any count of votes, there are three or more candidates in, or remaining in, the election and the numbers of votes cast for two or more candidates are equal and those candidates are the ones with the lowest number of votes on the count of the votes—the candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.

Part 4 General

12 Choosing by lot

To choose a candidate by lot, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the Returning Officer, the slips are folded by the Returning Officer so as to prevent the names being seen, the slips are mixed and one is drawn at random by the Returning Officer and the candidate whose name is on the drawn slip is chosen.

13 Result

The result of the election (including the name of the candidate elected as Mayor or Deputy Mayor) is:

- (a) to be declared to the Councillors at the Council Meeting at which the election is held by the Returning Officer, and
- (b) to be delivered or sent to the Secretary and the Chief Executive Officer of Local Government NSW.

(a) Policy Implications

Nil

(b) Financial Implications

Nil

(c) Legal Implications

Schedule 7 of the *Local Government (General) Regulation 2021*, provides for any election required to elect the Mayor and Deputy Mayor.

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

Focus Area 9 – Open and collaborative leadership.

9.3 DETERMINATION OF VOTING FOR ELECTION OF MAYOR AND DEPUTY MAYOR

DIRECTORATE: OFFICE OF THE GENERAL MANAGER

AUTHOR: Tracey Carr, Coordinator - Governance and Executive Services

RECOMMENDATION

That Council elect the Mayor and Deputy Mayor for the ensuing term by Ordinary Ballot.

SUMMARY

The purpose of this report is for Council to determine the voting method to be used in electing the Mayor and Deputy Mayor for the ensuing term.

COMMENTARY

Schedule 7 of the *Local Government (General) Regulation 2021* provides that if only one Councillor is nominated for the position of Mayor or Deputy Mayor, that Councillor is elected.

If more than one Councillor is nominated, the Council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.

Ballot has its normal meaning of secret ballot and **open voting** means voting by a show of hands or similar means.

(a) Policy Implications

Nil

(b) Financial Implications

Nil

(c) Legal Implications

Council's past practice has been to conduct the Election for the position of Mayor and Deputy Mayor by ordinary ballot.

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

Focus Area 9 – Open and collaborative leadership.

9.4 NOMINATIONS FOR THE POSITION OF MAYOR

DIRECTORATE: OFFICE OF THE GENERAL MANAGER

AUTHOR: Tracey Carr, Coordinator - Governance and Executive Services

RECOMMENDATION

That the Returning Officer calls for nominations for the position of Mayor for the ensuing term and if two or more nominations are received, an election be conducted.

SUMMARY

The purpose of this report is to call for and announce nominations received for the position of Mayor for the ensuing 12 month period.

COMMENTARY

Nomination Forms for the position of Mayor have been distributed and will also be available at the Ordinary Meeting.

The Returning Officer will call for final lodgement of nominations at the Meeting. After the final call for nominations, the Returning Officer will announce the names of the nominee(s). If necessary, an election will then be conducted.

Mayoral elections are normally held in September every two years. Postponement of the previous Local Government Election to 4 December 2021, meant the Mayoral election was not held until 5 January 2022. Section 290(1)(b) of the *Local Government Act* requires Council to hold the election of the Mayor by the Councillors during the month of September when the Mayors term expires.

Section 230(1) of the *Local Government Act* determines a Mayor elected by the Councillors holds the Office of Mayor for two years however, due to the next Local Government Election being scheduled for September 2024, the ensuing term will be 12 months.

(a) Policy Implications

Nil

(b) Financial Implications

Nil

(c) Legal Implications

Section 290(1)(b) of the Local Government Act requires Council to hold the election of the Mayor by the Councillors during the month of September. Section 230(1) of the Local Government Act determines a Mayor elected by the Councillors holds the Office of Mayor for two years. The ensuing term will be for 12 months only, due to the delay to the previous Local Government Election.

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

Focus Area 9 – Open and collaborative leadership.

9.5 NOMINATIONS FOR THE POSITION OF DEPUTY MAYOR

DIRECTORATE: OFFICE OF THE GENERAL MANAGER
AUTHOR: Tracey Carr, Coordinator - Governance and Executive Services

RECOMMENDATION

That the Returning Officer calls for nominations for the position of Deputy Mayor for the ensuing term and if two or more nominations are received, an election be conducted.

SUMMARY

The purpose of this report is to call for and announce nominations received for the position of Deputy Mayor for the ensuing one year period.

COMMENTARY

Nomination Forms for the position of Deputy Mayor have been distributed and will also be available at the Ordinary Meeting.

The Returning Officer will call for final lodgement of nominations at the Meeting. After the final call for nominations, the Returning Officer will announce the names of the nominee(s). If necessary, an election will then be conducted.

(a) Policy Implications

Nil

(b) Financial Implications

Nil

(c) Legal Implications

Section 290(1)(b) of the Local Government Act 1993, requires Council to hold the election of the Deputy Mayor by the Councillors during the month of September. Section 231 of the Local Government Act 1993, in relation to the Deputy Mayor: (1) The Councillors may elect a person from among their number to be the Deputy Mayor. (2) The person may be elected for the Mayoral term or a shorter term. (3) The Deputy

Mayor may exercise any function of the Mayor at the request of the Mayor or if the Mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the Office of Mayor. (4) The Councillors may elect a person from among their number to act as Deputy Mayor if the Deputy Mayor is prevented by illness, absence or otherwise from exercising a function under this section, or if no Deputy Mayor has been elected.

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

Focus Area 9 – Open and collaborative leadership.

9.6 FUTURE USE OF COUNCIL OWNED PREMISES AT 2/218 PEEL STREET, TAMWORTH

DIRECTORATE: GROWTH AND PROSPERITY

AUTHOR: Nicholas Hawkins, Commercial Property Officer
Bridget Guthrie, Director Art Gallery and Museums

Reference: Item 6.1 to Ordinary Council 22 August 2023 - Minute No 202/23

2 ANNEXURES ATTACHED

3 CONFIDENTIAL ENCLOSURES ENCLOSED

RECOMMENDATION

That in relation to the report “Future use of Council owned premises at 2/218 Peel Street, Tamworth”, Council adopt Option 1 as outlined in the body of this report.

SUMMARY

The purpose of this report is to advise Council of the current status of the Council owned premises at 2/218 Peel Street, Tamworth and outline the proposed options for the future use of the premises.

COMMENTARY

At its meeting held on 22 August 2023, Council adopted the following resolution in respect of the property situated at 218 Peel Street, Tamworth:

That the General Manager report to Council on details of leases and terms extant on Lot 1 DP 779538, the financial impact to Council should one or more of the buildings be transferred to the Tamworth PowerStation Museum, and a timeline for the potential transfer of buildings to enable and expedite the expansion of the PowerStation Museum footprint in the adjoining buildings.

Background

Lot 1 DP 779538, No. 218 Peel Street, Tamworth was purchased by Council in 2017. The property consists of four separate premises. Two premises are situated in the main commercial/office building facing Peel Street and are known as 1/218 Peel Street and 2/218 Peel Street. The other premises are the two sheds situated at the rear of the property. A map of 218 Peel Street, Tamworth is **ATTACHED**, refer **ANNEXURE 1**.

Since the property was purchased by Council, the premises have been occupied by tenants under multiple commercial lease agreements. In May 2023 the most recent tenant of 2/218 Peel Street vacated the property upon expiration of their lease.

In June 2023, Council released an Expression of Interest (EOI) for lease of 2/218 Peel Street. Some enquiries were made in relation to the premises but no submissions were received upon the closing date of the EOI. As such, the EOI closing date was extended until 5 September 2023 and is still open at the time of writing this report.

Council is aware that the Tamworth PowerStation Museum has raised an interest in 2/218 Peel Street. The Tamworth PowerStation Museum currently occupies the neighbouring Council owned premises at 216 Peel Street and one of the sheds at the rear of 218 Peel Street.

Council's resolution requires information on the following:

1. Details of Leases for Lot 1 DP 779538

A schedule of leases relevant to Lot 1 DP 779538 is **ENCLOSED**, refer **CONFIDENTIAL ENCLOSURE 1**.

2. Financial Impact Should one or more of the Buildings be Transferred

If a lease agreement for 2/218 Peel Street to the PowerStation Museum is approved containing a nominal rental amount, Council must forego the potential rental return on the premises that it would have received if a commercial lease agreement was entered into. An estimate of the potential rental is calculated based on the rental received from the previous tenant of the premises and the comparable neighbouring premises of 1/218 Peel Street. A statement of the estimated potential rental of the premises is **ENCLOSED**, refer **CONFIDENTIAL ENCLOSURE 2**.

Council should also note the annual maintenance and upkeep costs of the premises. If Council approves a lease agreement for 2/218 Peel Street to the PowerStation Museum containing a nominal rental amount, the estimated annual maintenance and upkeep costs should be allocated from another source to ensure the premises remains in good repair throughout the duration of the lease and does not fall into disrepair, creating a greater cost that Council must cover in the future. A statement of the estimated annual maintenance and expenses associated with the premises is **ENCLOSED**, refer **CONFIDENTIAL ENCLOSURE 3**.

It is noted that this estimate is based on the current expenses budget for the entire property of Lot 1 DP 779538. As 2/218 Peel Street is one of four premises currently situated on the property, the estimated maintenance expenses have been apportioned to reflect this.

3. Timeline for Potential Transfer of Buildings

The process to grant a lease agreement to the PowerStation Museum to occupy 2/218 Peel Street can begin immediately, subject to Council resolution.

Strategic Considerations

Council currently supports ten public museums and archive groups with heritage collections in the Tamworth Regional Council area, of which the Tamworth PowerStation Museum's collection is included.

In Council's adopted Regional Museums Engagement Strategy, one of the five key focus areas is "Creating a Level Playing Field". The intended outcome of this focus area is to ensure support is provided equitably across the ten public museums and archive groups. A copy of the Tamworth Regional Museums Engagement Strategy is **ATTACHED**, refer

ANNEXURE 2. By providing an additional Council premises to one of the regional museums only, this may be considered inequitable and in contradiction to the adopted strategy.

It is relevant to note that Council has recently received requests from other museums and archive groups with heritage collections within the Tamworth Region to provide additional storage space or provide approval for shipping containers to be situated on Council premises. To date, approval has not been granted to ensure consistency of decision-making in relation to requests for additional storage space from regional museums. The rationale behind this is that the prime purpose of Council in providing a premises to the museums and archive groups at a nominal rate is for the display of collections. On this basis the premises should therefore be used for display of the collections, not for storage of collections beyond the capacity of the existing storage space within the premises.

Should Council determine to lease a portion of Lot 1 DP 779538 being the premises known as 2/218 Peel Street, Tamworth to the Tamworth PowerStation Museum, Council may expect to receive further requests to provide additional premises or storage facilities to other regional museums. If an additional premises is provided to one of the museums or archive groups and not others who also request additional space or storage capacity this may be perceived as inconsistent and potentially inequitable. A decision will then need to be made as to whether these requests are approved or not with reference to the Key Focus Areas of the Tamworth Regional Museums Engagement Strategy and taking into account the financial implications.

Current Collection and Storage Facilities

The Tamworth PowerStation Museum has an existing collection store located as part of the rear shed at 218 Peel Street (Shed 1). Council has previously implemented building renovations, including air conditioning, reinforcing wall structures, lining existing walls, painting, concrete ramp provisions, new doors, security measures and other upgrades to this existing shed for the purposes of collection storage. Due to the current size of the collection, Council is currently storing large scale items and larger collection objects in a storage facility at a cost of \$950.00 (ex GST) per month. Council staff and Volunteers are reviewing the collection held in storage in preparation for it to be moved to the Tamworth PowerStation Museum Engine Shed post completion of its extension.

Council has secured \$241,000 of grant funding through Creative Capital NSW for the construction of an extension to the Tamworth PowerStation Museum Engine Shed. This extension will create a workspace for volunteers and Council staff to undertake collection care and digitisation of the museum collection. A further \$50,000 of Council funds has been allocated for costs associated with project management of this extension. The proposed extension is therefore an existing (current) project with allocated grant funding and Council contribution. If a lease of 2/218 Peel Street is entered into with the Tamworth PowerStation Museum at a nominal rate, this would be in addition to the current funded extension.

Given the costs (both actual and loss of potential income) associated with providing a lease of 2/218 Peel Street at a nominal rental rate and with reference to the Key Focus Areas of the Tamworth Regional Museums Engagement Strategy, it is recommended that that Council adopt Option 1 as set out in the body of this report.

This report presents two options for Council to consider:

Option 1 (Preferred Option)

Council continues to seek a commercial tenant for 2/218 Peel Street, Tamworth with the intention of entering a commercial lease agreement containing a market rental.

Option 2

Council approves a lease agreement for part Lot 1 DP 779538 being the premises known as 2/218 Peel Street, Tamworth to the Tamworth PowerStation Museum. If the terms of such a lease provide a less than market rental or a nominal rental amount, then Council make ongoing contributions via the General Fund to ensure the maintenance, upkeep and capital expenditure required to keep to property in good repair for the duration of the lease.

(a) Policy Implications

Nil

(b) Financial Implications

If Option 1 is adopted any rental received from the commercial lease will be retained by Council. General maintenance costs and expenses will be paid from lease fees in accordance with the property's maintenance budget as required.

If Option 2 is adopted Council will forego the potential rental income that would be obtained from the premises if a commercial lease was to be entered into. Council would also be required to authorise the General Manager to allocate reasonable costs for the annual maintenance costs and expenses associated with the premises from the General Fund.

(c) Legal Implications

If Option 2 is adopted, the Seal of Council is required to be affixed to any lease agreement pursuant to the matters set out in the body of this report.

The *Local Government (General) Regulation 2021*, 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

It is important to note that the Tamworth PowerStation Museum volunteers were actively engaged in the process of developing the Tamworth Regional Museums Engagement Strategy. The volunteers have also assisted in the development, by Council staff, of a Strategic Plan for the PowerStation Museum, which identifies the need for additional collection storage and display. The challenge for Council is that each of the ten existing museums and archive groups throughout the Tamworth Region have also identified this need and have not all received the same level of financial support as the PowerStation Museum. Therefore, in Council's consideration of the options outlined in this report the need for a consistent approach toward all regional museums and archive groups is recommended.

(e) Delivery Program Objective/Strategy

Focus Area 3 – Prosperity and Innovation

9.7 ENDORSEMENT OF SPECIAL VARIATION COMMUNICATION PLAN AND PUBLIC EXHIBITION OF REVISED LONG TERM FINANCIAL PLAN

DIRECTORATE: OFFICE OF THE GENERAL MANAGER
AUTHOR: Rami Abu-Shaqra, Chief Financial Officer

5 ANNEXURES ATTACHED

1 CONFIDENTIAL ENCLOSURES ENCLOSED

RECOMMENDATION

That in relation to the report “Endorsement of Special Variation Communication Plan and Public Exhibition of Revised Long Term Financial Plan”, Council:

- (i) endorse the draft Long Term Financial Plan as part of the Updated Resourcing Strategy, ATTACHED, refer ANNEXURE 1, for public exhibition for a period of 28 days, commencing 17 September 2023;*
- (ii) endorse the undertaking of community engagement on a potential application to the Independent Pricing and Regulatory Tribunal for a proposed permanent Special Variation (SV) of 18.5 per cent in 2024-2025 (including the forecasted rate peg of 3.5 per cent) and 15.0 per cent in 2025-2026 (including the forecasted rate peg of 2.5 per cent), representing a cumulative Special Variation of 36.3 per cent over two years, which is the Sustainability Scenario – Two-year SV option in the draft Long Term Financial Plan; and*
- (iii) receive a further report regarding the outcome of community engagement undertaken to determine any final application to be made to the Independent Pricing and Regulatory Tribunal for a Special Variation.*

SUMMARY

Council has supported a steadily growing population and maintained its infrastructure and services within the scope of its revenue growth in line with the rate peg increases set by the State Government. However, in recent years this has become increasingly difficult.

The recent COVID pandemic, impacts on infrastructure of recent weather events, historic low interest rates returning low investment returns, and the current highly volatile inflationary environment have increased Council's costs faster than its revenue growth. These issues have continued to put pressure on Council's budget.

Council has implemented several cost optimising and revenue enhancement initiatives that have resulted in net benefits. Council is also embarking on a Digital Strategy and Roadmap to find further efficiencies and improve customer experience.

With costs continuing to outstrip revenue, resulting in operating deficits, Council has reduced infrastructure renewal and maintenance to ensure a balanced budget. In some areas, Council has been able to utilise State and Federal Grants, as well as loans, to fund infrastructure renewal and operations. However, these sources of funds are unreliable and unsustainable. Servicing and paying back loans is also becoming more costly. Council must now consider increasing rates revenue to adequately fund its current services and ongoing infrastructure needs.

From several scenarios considered by the Council, the Sustainability Scenario – Two-year SV is the preferred option as it balances Council's sustainability needs with reducing the impact to household budgets through implementing the SV over two years. Under this scenario, Council would apply to the Independent Pricing and Regulatory Tribunal (IPART) for a permanent cumulative rate increase of 36.3 per cent over two years from 01 July 2024.

If secured, this SV would assist Council in maintaining surpluses, meeting operating expenditure, and ensuring sufficient investment in infrastructure. Council must now undertake comprehensive community engagement as part of its consideration for applying for an SV.

COMMENTARY

Background

The Community Strategic Plan (CSP) has been developed and endorsed to deliver on the Blueprint 100, Tamworth Regional Council's (Council) strategy to grow Tamworth to a region of 100,000 by 2041. Since its adoption in 2020, Council has delivered the actions in these strategies to actively encourage population and economic growth in the Tamworth Region.

Council has supported a steadily growing population and maintained its infrastructure and services within the scope of its revenue growth in line with the rate peg increases set by the State Government. The rate peg determines the maximum percentage amount by which a council may increase its general income for the year. For 2023/2024, for Tamworth the rate peg has been set by the NSW Government at 3.7%. However, for years before, the rate peg applied by Council has not been higher than 2%.

As a result of years of rate pegging at this rate, Council's income has not kept pace with the costs of providing services and maintaining its \$2 Billion worth of infrastructure.

The Financial Challenge

Council's cost of doing business has been affected by global inflationary pressures such as elevated oil prices and supply chain disruptions. Over the 12 months to June 2023, the Consumer Price Index (CPI) rose by 6%. It rose by 7.8% over the 12 months to December 2022. Despite the recent cooling, the RBA expects CPI to remain above the target range of 2 – 3% by the end of 2024 citing energy prices forecast to add significantly to inflationary pressures over the coming year. Council's material and plant expenditure, being almost one-third of total spend, have seen bigger hikes than the average CPI.

The financial challenge is not all about inflation, the recent weather events led to more than usual work orders to fix and maintain our large road network. Emergency grant funding has helped alleviate the immediate impact however, those conditions are expected to remain and the bill for renewing and maintaining our infrastructure will continue to grow.

Council is still struggling with attracting and retaining a skilled workforce. With record unemployment and recent wage increases, the cost of payroll is expected to remain above 3% for the foreseeable future.

The above increased costs of doing business for Council coincided with years of flat revenue streams. In addition to the limited increase in rate revenue due to rate pegging, other revenue sources have either declined or even dried up in two years of COVID; examples include airport and events and economic operations. Council's investment return (interest on its deposits) also declined significantly due to the RBA's decision to lower cash rates to record lows. State and Federal grants continued to supplement Council's income but mostly for restricted capital projects, where Council is expected to make some contribution. Even the unrestricted Federal Assistance Grant (FAG) increases have not kept pace with the recent inflationary pressures and Council's growth in services and assets. Finally, cost shifting continued with the recent removal of the state government subsidy of the Emergency Services Levy (ESL).

Council's Response

The above issues have continued to put pressure on Council's budget. Over the past few years, Council has followed a conservative financial policy with measures of cost optimisation and revenue enhancement. Council has implemented 189 initiatives to delivery cost savings and efficiencies, including finding \$7.9 million in annual savings and \$3.2 million in one-off savings. Council staff have identified a further 24 initiatives, with \$1.6 million in annual net benefits and \$2.2 million in one off benefits. Additional information is contained in the Organisational Sustainability Review and Improvement Plan **ATTACHED** refer **ANNEXURE 2**. The Organisational Sustainability Review and Improvement Plan refers to Appendix A. This Appendix is now **ENCLOSED**, refer **CONFIDENTIAL ENCLOSURE 1**.

Council has also started to benefit from increased economic activities approaching pre-COVID levels. The organisation is now embarking on a Digital Strategy and Roadmap that is expected to introduce considerable productivity and efficiencies over the coming decade and elevate the community and customer experience when dealing with Council.

As stated in the report summary, cost increases continue to out strip revenue, resulting in operating deficits. Council has reduced infrastructure renewal and maintenance to ensure a balanced budget. While Council has been able to utilise State and Federal Grants, as well as loans, to fund infrastructure renewal and operations these sources of funds are unreliable and unsustainable. Servicing and paying back loans has become more costly. Council must now consider increasing rates revenue to adequately fund its current services and infrastructure needs.

Council's Recommended Course of Action

In its 2023-2025 Delivery Program, Council identified the need to consider an SV for rates to ensure its ongoing financial sustainability. In the 2023-2034 Long Term Financial Plan (LTFP), a draft of which will be exhibited in line with community engagement on the SV, Council commenced the process of modelling an SV in its financial planning scenarios.

Council's LTFP provides a framework to assess its revenue building capacity to meet the activities and levels of service outlined in its Community Strategic Plan, Delivery Program and Operational Plans. The LTFP is required to be reviewed annually with a detailed review every four years, and cover a minimum period of 10 years.

Since June 2023, further analysis has been undertaken in relation to Council's long term financial position and has established that an SV is required to achieve Council's financial sustainability and maintain fit-for-purpose infrastructure. Accordingly, Council's draft 2023-2034 LTFP has been developed and included as part of an updated Resourcing Strategy and is **ATTACHED**, refer **ANNEXURE 1**.

The draft LTFP has been prepared in accordance with the *Integrated Planning and Reporting Guidelines* issued by the Office of Local Government and prescribed under the Act, and includes three financial modelling scenarios. In addition to a base case scenario that is modelled on the rate peg only, the LTFP models two Special Variation scenarios to address Council's ongoing financial sustainability. The two SV options that were designed to ensure Council can successfully:

- generate an operating surplus, before capital income;
- fully fund all required asset renewals and maintenance;
- return to and maintain a positive unrestricted cash position; and
- deliver all improvement program initiatives.

The proposed SV increases in each of the two scenarios are largely similar; the key difference is the number of years required to implement the full extent of the rate increase.

Table 1, below, summarises the two scenarios:

SV Options	2024-2025	2025-2026	Cumulative increase over SV implementation period
Base Case	3.5%	2.5%	6.1%
Sustainability Scenario – One-year SV	30.0%		30.0%
Sustainability Scenario – Two-year SV	18.5%	15.0%	36.3%

Of the above scenarios, **the Sustainability Scenario – Two-year SV** is the preferred option as it balances Council's sustainability needs with reducing the shock to household budgets through implementing the SV over two years. Under this scenario, Council would apply to the Independent Pricing and Regulatory Tribunal (IPART) for a permanent cumulative rate increase of 36.3 per cent over two years from 01 July 2024. If secured, this SV would assist Council in maintaining an adequate surplus, meeting operating expenditure, and ensuring sufficient investment in infrastructure. Additional and more detailed information on the proposed SV is contained in the Special Variation Background Paper **ATTACHED**, refer **ANNEXURE 3**.

Impact on Rate Payers

Table 2, below, provides the annual rates increase likely to be experienced by the **average** land value for each rating category, should the proposed SV be secured. The information provided is an average across the whole of Council including smaller towns and villages. More detailed information on average increases for individual locations is available in the Capacity to Pay Report **ATTACHED**, refer **ANNEXURE 4**.

Rating category	2023-24	2024-25	2025-26	Cumulative increase
Residential	\$1,197.28	\$1,418.78	\$1,631.59	\$434.31
Business	\$4,154.07	\$4,922.50	\$5,660.88	\$1,506.87
Farmland	\$2,147.96	\$2,545.33	\$2,927.13	\$779.17
Mining	\$10,073.39	\$11,936.97	\$13,727.51	\$3,654.12

Alternative Course of Actions

a. Doing nothing

This is the Base Case where rate revenue is subject to the rate peg, forecasted at 3.5% in 2024/2025 and 2.5% thereafter. The Base Case will not enable Council to be

fit for the future and will negatively impact its service levels and assets renewal and maintenance programs. As a result, Council is likely to find itself in a worse situation in future years and be forced to either scale back services and/or go back to its community with a request for alternative financial measures. This is not recommended.

b. Sustainability scenario – one year SV

This scenario will address Council's sustainability needs but it will hit the community with one significant rate increase in a single year. Such an increase will affect many ratepayers' capacity to pay in the current economic climate and add undue pressures to their household budgets. This is not recommended.

c. Sustainability scenario – more than two years SV

Sustainability scenarios for more than two years have not been modelled. As per our discussions with IPART and experience of past SV applications of other councils, IPART does not look favorably at requests for longer years of consecutive permanent SV. Furthermore, rate pegs in the future, although unpredictable, are expected to be more aligned with increases in councils' cost of doing business as IPART makes recommendations to change the rate peg methodology.

IPART have been tasked by the NSW Government to undertake a review of the rate peg and look at new approaches to setting the rate peg that reflect, as far as possible, changes in inflation and local government costs, while continuing to protect ratepayers from excessive rate increases. IPART has issued its draft report in June and consulted with the sector and was planned to submit their Final Report to the Minister on 31 August 2023. Therefore, Council requesting a permanent SV over longer years will increase the risk of missing out on potentially "better" rate pegs in the future. This is not recommended.

(a) Policy Implications

Nil

(b) Financial Implications

Consideration of the subsequent lodgement of an SV application to IPART will be the subject of a further report to Council following the community engagement process. The forecast financial implications of the approval or rejection of the proposed sustainability scenarios are outlined in this report and accompanying **ATTACHMENTS**, refer **ANNEXURES 1,2,3 and 4**.

(c) Legal Implications

Nil

(d) Community Consultation

In making an application for an SV, Council must demonstrate that it has effectively informed and consulted the community on the possibility of an SV, including impact of both the proposed SV as well as not applying for an SV. Accordingly, a Communication Plan has been developed to form the basis for this community engagement process **ATTACHED**, refer **ANNEXURE 5**.

The Communication Plan clearly outlines the various tools that will be used to inform and engage with the community about the proposed SV. Consistent with Council's Community Engagement Strategy, it is proposed that a suite of print, online and face-

to-face engagement mechanism be used to support the delivery of the community engagement.

The community engagement will commence Monday, 18 September 2023 and conclude Monday, 30 October 2023. Following conclusion of that process, a report on the community engagement and feedback received via that process will be prepared and submitted to Council for consideration at its Ordinary Meeting scheduled for 28 November 2023.

It should be noted that, should Council proceed in making application to IPART for an SV, IPART will seek its own community feedback separate from Council's processes and invite submissions from members of the public. This process is typically undertaken in the subsequent February/March.

(e) Delivery Program Objective/Strategy

Focus Area 9 - Open and Collaborative Leadership

9.8 MOTION FOR THE LOCAL GOVERNMENT NSW ANNUAL CONFERENCE 2023

DIRECTORATE: OFFICE OF THE GENERAL MANAGER
AUTHOR: Tracey Carr, Coordinator - Governance and Executive Services

Reference: Item 9.1 to Ordinary Council 8 August 2023 - Minute No. 194/23

RECOMMENDATION

That in relation to the report "Motion for the Local Government NSW Annual Conference 2023", Council authorises the motion on responsible pet ownership to be submitted to the Local Government NSW Annual Conference 2023.

SUMMARY

This purpose of this report is to authorise the motion on responsible pet ownership to be submitted on behalf of Tamworth Regional Council to the Local Government NSW Annual Conference 2023.

COMMENTARY

Local Government NSW Annual Conference 2023 (the Conference) will be held on the 12-14 November, at Rosehill Gardens Racecourse. At the Ordinary Council Meeting of 8 August 2023, Council resolved that the Mayor, Deputy Mayor, Councillor Phil Betts and Councillor Brooke Southwell would attend the Conference as voting delegates. And that Councillor Helen Tickle and Councillor Judy Coates will attend as observers

In relation to the Motions to the Conference, motion submissions made via the online portal should include the Council's Name and details, the indicative category of the motion, the Motion title, the Motion wording, a background note explaining the rationale of the motion (max one or two paragraphs) and attach evidence of Council support for the motion (i.e. extract of the Minutes of the meeting at which the member resolved to submit the motion for consideration by the Conference, or in the absence of a Council Meeting, a letter signed by the Mayor and General Manager).

Council has developed the following motion for submission to this year's conference:

Responsible Pet Ownership and addressing the impact of cats on wildlife

That Local Government NSW calls on the NSW State Government to address the impact of cats on wildlife by amending the Companion Animals Act to:

1. Mandate the desexing of all cats by 6 months of age with the exception of those owned by registered breeders and holding a valid permit for each litter;
2. Tighten the laws allowing the issue of permits for breeders and the ability to use the same permit for subsequent litters;
3. Provide funding to Councils and not-for-profit rescue organisations for specific reduced cost desexing programs;
4. Mandate the containment of all domestic/pet cats either within a dwelling and/or within an external enclosure; and
5. Provide significantly increased funding for on-ground resources to enforce enclosures and investigate and enforce laws relating to illegal breeders.

Note from Council

Council is aware of significant statistics based on research across Australia detailing the negative impacts of cats, including domestic (pet) cats on native wildlife. Council holds significant concerns regarding the impact on biodiversity of the huge numbers of native birds, small mammals and reptiles that are killed by domestic cats each year and the effect on vulnerable and threatened species.

The current regulations applicable to domestic (pet) cats under the Companion Animals Act are inadequate to address this problem, and there is an urgent need to address in particular the lack of a mandate for the desexing of all cats and the requirement for containment within an owner's property, either within a dwelling or within an outside enclosure. There is also an urgent need to tighten the currently weak regulations and process applying to the breeding of cats and the permit system.

It is acknowledged that the amendments proposed above will not achieve the intent without accompanying state funding to enable enforcement of the changes. In the absence of state funding to enforce desexing and ensure containment through enclosure, the numbers of cats, both owned and stray, will continue to increase, with a corresponding increase in wildlife deaths and reduced biodiversity.

(a) Policy Implications

Nil

(b) Financial Implications

Nil

(c) Legal Implications

Nil

(d) Community Consultation

Nil

(e) Delivery Program Objective/Strategy

Focus Area 9: Open and collaborative leadership

10 COMMUNITY SERVICES

Nil

11 REPORTS TO BE CONSIDERED IN CLOSED COUNCIL

RECOMMENDATION

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

**TENDER T002/2024 - CONSTRUCTION OF CIVIL WORKS FOR PEDESTRIAN
INFRASTRUCTURE AROUND SCHOOLS - PACKAGE 2**

DIRECTORATE: REGIONAL SERVICES
AUTHOR: Mark Gardiner, Manager - Project Planning and Delivery
Reference: Item 8.5 to Ordinary Council 22 August 2023 - Minute
No.208/23
Item 12.6 to Ordinary Council 8 November 2022 - Minute No
344/22

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

SUMMARY

The purpose of this report is to inform the Councillors of the outcome of the recently-advertised tender, T002/2024, for construction of civil works as part of the Infrastructure Around Schools project. The total contract value was less than the NSW Local Government threshold for tendering (\$250,000 including GST), and as such, a contract was awarded by the Regional Services' Manager of Project Planning and Delivery under their financial delegation.

Tamworth Regional Council (Council) received funding as part of stimulus from the NSW Government's Road Safety Program, School Zone Infrastructure Sub Program. The aim of this program is to deliver improvements to pedestrian facilities around schools such as raised pedestrian crossings, pedestrian refuges and kerb blisters, signage and lighting.

Council technical staff identified locations throughout the Tamworth Local Government area (LGA) that would benefit from improvements to pedestrian infrastructure. These locations were identified through a combination of assessment of areas surrounding schools by Council staff as well as consultation with nearby schools. This funding will provide infrastructure to improve pedestrian safety at, or near, 19 schools in the region.

Due to the size and complexity of this program, the delivery is being staged. This contract, along with three projects being constructed by Regional Services' Civil Construction team, will complete the construction of civil works for this program. The remaining work will be to complete the design and then construct street lighting at various locations.

TENDER T022-2024 - SUPPLY AND DELIVERY OF STEEL REINFORCED CONCRETE (RUBBER RING JOINT AND FLUSH JOINT) AND FIBRE REINFORCED CONCRETE (FRC) STORMWATER PIPES AND ASSOCIATED CONCRETE PRODUCTS

DIRECTORATE: REGIONAL SERVICES

AUTHOR: Darin Beard, Warehouse Supervisor

2 CONFIDENTIAL ENCLOSURES ENCLOSED

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

SUMMARY

Regional Procurement sought expressions of interest from Councils to participate in a panel source tender, by category, for the supply and delivery of Steel Reinforced Concrete (Rubber Ring Joint and Flush Joint) and Fibre Reinforced Concrete (FRC) Stormwater Pipes and Associated Concrete Products.

WINTON RURAL FIRE SERVICE - PROPOSED LAND ACQUISITION

DIRECTORATE: REGIONAL SERVICES

AUTHOR: Mark Gardiner, Manager - Project Planning and Delivery

1 CONFIDENTIAL ENCLOSURES ENCLOSED

The Council will determine this matter in part of the meeting closed to the public pursuant to Section 10A(2) (c) of the local Government Act 1993 on the grounds that the matter and information is information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.

SUMMARY

This report seeks Council approval to acquire land on Duri-Winton Road, Winton for the purpose of constructing a new rural fire station.

PROPOSED LEASE FOR CAPITOL THEATRE PREMISES

DIRECTORATE: GROWTH AND PROSPERITY

AUTHOR: Nicholas Hawkins, Commercial Property Officer

1 CONFIDENTIAL ENCLOSURES ENCLOSED

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

SUMMARY

The purpose of this report is to seek Council's authorisation to enter a further lease to continue occupation of the current Capitol Theatre premises.

SALE OF DRUMALBYN AND KARA - OGUNBIL

DIRECTORATE: WATER AND WASTE

AUTHOR: Daniel Coe, Manager - Water and Environmental Operations

Reference: Item 14.3 to Ordinary Council 27 September 2016 - Minute No 293/16
Item 14.5 to Ordinary Council dated 12 June 2018 - Minute No 202/18
Item 16.11 to Ordinary Council 24 September 2019 - Minute No 337/19
Item 8.1 to Ordinary Council 27 September 2022 - Minute No 275/22
Item 12.12 to Ordinary Council 13 December 2022 - Minute No 401/22

The Council will determine this matter in part of the meeting closed to the public pursuant to Section 10A(2) (c)&(d)ii of the local Government Act 1993 on the grounds that the matter and information is information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business. and information that would, if disclosed, confer a commercial advantage on a competitor of Council.

SUMMARY

Council purchased the adjoining properties known as Drimalbyn and Kara located on the Ogunbil Road, Ogunbil in late 2019. The primary purpose for acquisition at the time was to allow one of the residences on the property, considered to be at high risk of loss of life in the event of failure of the Dungowan Dam, to be demolished. This work has been completed and at its meeting of 27 September 2022 Council resolved to plan to sell the properties following the completion of the lease of the property ending on 30 April 2023. At its meeting of 13 December 2022, Council resolved to provide funding for minor renovations of the properties and proceed to auction both properties independently. This report provides Council details on the outcome of the auction undertaken on 6 September 2023 by Ray White and seeks further direction in relation to this matter.