

# TAMWORTH REGIONAL COUNCIL

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

## ORDINARY COUNCIL AGENDA

**14 MAY 2019**

**PAUL BENNETT  
GENERAL MANAGER**

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## Council

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

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

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

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

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

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

## Community Consultation Policy

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

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

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

Members of the public wishing to address Council Meetings are requested to contact Council either by telephone, in person or online prior to 4:30pm the day of 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, 30 April 2019, copies of which were circulated, be taken as read and confirmed as a correct record of the proceedings of the Meeting.*

### **4 DISCLOSURE OF INTEREST**

Pecuniary Interest

Non Pecuniary Conflict of Interest

Political Donations

### **5 MAYORAL MINUTE**

Nil

### **6 NOTICE OF MOTION**

Nil

### **OPEN COUNCIL REPORTS**

### **7 ENVIRONMENT AND PLANNING**

**7.1 DEVELOPMENT APPLICATION NO. DA2018-0414 FOR A SUBDIVISION (STAGED RESIDENTIAL 161 LOTS AND ONE RESIDUE LOT) AT 525 MOORE CREEK ROAD MOORE CREEK – FILE NO DA2018-0414**

**DIRECTORATE: PLANNING AND COMPLIANCE**

**AUTHOR: Emma Briggs, Senior Development Assessment Planner**

**Reference: Item 7.2 to Ordinary Council 25 October 2016 - Minute No 312/16**

**3 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**

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## **RECOMMENDATION**

***That in relation to Development Application No. DA2018-0414 for a Subdivision (Staged Residential 161 lots and One Residue Lot) at 525 Moore Creek Road Moore Creek be granted approval subject to the following conditions:***

### ***Prior to Works Commencing***

- 1) 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 Certifying Authority for the building work; and***
    - ii) notified the Principal Certifying Authority that the person will carry out the building work as an owner-builder, if that is the case;***
  - c) the Principal Certifying Authority 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 Certifying Authority of any such appointment;
    - iii) unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work; and
    - iv) given at least two days notice to Council of the persons intention to commence the erection of the building.
- 2) 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 Council.
- The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.**
- 3) The Applicant must ensure that a sign containing the following information is erected in a prominent position and maintained on the site at all times:**
- a) the name, address and telephone number of the Principal Certifying Authority for the work;
  - b) the name of the Principal Contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
  - c) a statement that unauthorised entry to the work site is prohibited.
- The sign is to be removed when the work has been completed.**
- 4) Erosion and sediment control measures that will minimise damage to and avoid pollution of the environment are required for this development. An erosion and sediment control plan (ESCP) is to be prepared in accordance with the "Blue Book" Managing Urban Stormwater –Soils and Construction (Landcom 2004). The ESCP is to be submitted to Council for approval and implemented prior to the commencement of any construction works.**
- 5) A Traffic Management Plan detailing how movements in and out of the site during**
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*construction will be adequately managed so as not to adversely impact the safe operation of the road network (this is inclusive of a pedestrian management plan) shall be submitted to Council for approval*

- 6) *Traffic Control Plans (TCP) are to be prepared by a person with the applicable certification from Roads and Maritime Services (RMS) in accordance with AS1742.3-1996 and the RMS current version of the "Traffic Control at Worksites" manual. All TCP's are to be implemented prior to the commencement of any works undertaken within a dedicated road reserve.*
- 7) *The contractors engaged to undertake development on public land or infrastructure must provide proof of Public Liability Insurance to the value of \$20 million to ensure sufficient insurance cover to indemnify Council from liability. The policy should specifically indemnify Council from all claims arising from the execution of the works.*

#### **Prior to Issue of a Construction Certificate**

- 8) *Certification shall be provided in accordance with Annexure A of Council's current version of the Engineering Design Minimum Standards for Subdivisions and Development prior to issue of a Construction Certificate for each stage.*
- 9) *A stormwater servicing strategy for the development site shall be prepared and submitted to Council for approval in accordance with the requirements of Part 3 of Council's current version of Engineering Design Minimum Standards for Subdivisions and Development.*

*The stormwater servicing strategy for this development must also include calculations and associated commentary for the following:*

- a) *stormwater detention for the range of 1:1 to 1:100 year ARI event to reduce the developed flows to predeveloped flows for the entire development;*
- b) *the drainage channel through the unnamed watercourse;*
- c) *minor stormwater network;*
- d) *Q100 overland flow paths;*
- e) *inter-allotment drainage;*
- f) *upstream flows entering the site and effects to any existing and newly created lots;*
- g) *any post developed flows leaving the site (undetained) into adjoining property (by agreement); and*
- h) *the stormwater servicing strategy to be approved by Council shall be used to address the required stormwater drainage design for the development site.*

*In the event that the nominated overland flow paths cannot adequately demonstrate compliance with respect to the:*

- a) *depth of flow within the nominated reserve; and*
- b) *safe velocity to depth ratio;*

*additional capacity within the minor system shall be provided so that compliance can be achieved.*

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

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

- 11) **A pavement design report that complies with the requirements of Council's current version of the Engineering Design Minimum Standards for Subdivisions and Development shall be submitted to Council for approval with each stage. The report shall detail the subgrade CBR test results, sampling should be undertaken in accordance with AS1289 - Method of Testing Soils for Engineering Purposes.**
- 12) **A landscaping plan for each stage of the development that complies with the requirements of Councils current version of the Engineering Design Minimum Standards for Subdivisions and Development shall be submitted to Council for approval with the Construction Certificate.**
- 13) **Prior to the issue of a Construction Certificate (for the relevant stage), a landscaping plan shall be provided to Council for approval for the 10 metre wide public reserve (pedestrian path) located in the south western corner of the development site, specifying the following:**
- a) **a 100mm thick boundary line non-slip reinforced concrete footpath complete with pram ramps and jointed in accordance with Council's Standard Drawing 186550 shall be constructed within the 10 metre wide public reserve (pedestrian path). The width of the path shall be at minimum 1.5 metres and bollards shall be supplied to prevent unauthorised vehicle access;**
  - b) **landscaping shall be provided within the 10 metre wide public reserve (pedestrian path), the landscaping shall consist of low growing drought tolerant plants/shrubs as to minimise maintenance; and**
  - c) **to provide for the safety and security of pedestrians and amenity, outdoor lighting in accordance with AS 1158.3.1 Pedestrian Area (Category P3) Lighting shall be provided within the proposed 10 metre wide public reserve (pedestrian path). The lighting installed must comply with AS4282 Control of Obtrusive Effects of Outdoor Lighting.**
- 14) **An Inspection Test Plan (ITP) for the construction of roads and drainage infrastructure required for the development shall be submitted to Council's Manager Strategy and Development for approval to ensure the quality of construction meets the design criteria.**
- 15) **Electrical reticulation construction plans stamped and approved by Essential Energy shall be provided prior to issue of a Construction Certificate for each stage to ensure no Lots are burdened by existing overhead power lines, street lights are installed in accordance with Australian Standards and Council's Guidelines, and satisfactory arrangements have been made for the provision of electricity to all Lots.**
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- 16) *Where retaining walls are to be constructed as part of this development, certification of the design of the retaining wall(s) on affected lots by a suitably qualified Civil/Structural Engineer holding Chartered Professional Engineering status shall be submitted to Council prior to the release of the Construction Certificate.*

#### **General**

- 17) *The development (including staging of works) shall be carried out in accordance with the attached endorsed plans:*
- a) *Overall Plan, Project No. HD9, Drawing No. DA2-2, Revision 1, prepared by High Definition Design Pty Ltd, dated 18.02.2018;*
  - b) *Subdivision Plan, Project No. HD9, Drawing No. DA2-2, Revision 2, prepared by High Definition Design Pty Ltd, dated 13.04.2018;*
  - c) *Staging Plan, Project No. HD9, Drawing No. DA2-4, Revision 1, prepared by High Definition Design Pty Ltd, dated 18.02.2018.*
- 18) *The development must be carried out in accordance with the Development Application and accompanying plans, drawings and other documents unless otherwise as amended by conditions of this consent. Any amendment to the development or to these conditions will require the consent of Council.*
- 19) *Staging of the development is permitted provided that continuity in the installation of utility services and any civil infrastructure required is not compromised by the staging.*
- 20) *Construction of each stage shall minimise traffic impacts on the newly constructed pavements associated with the development. In this regard, an alternate construction access to each stage shall be nominated, constructed, used and maintained in accordance with a Traffic Management Plan to be submitted to Council for approval.*
- 21) *The development is to comply with Council's current version of the Engineering Design Minimum Standards for Subdivisions and Developments.*
- 22) *The development shall be constructed wholly within the confines of the property boundary. No portion of the proposed structure including any fencing and/or gates shall encroach onto or over adjoining properties or upon the road reserve area.*
- 23) *It is the responsibility of the developer to meet all expenses incurred in undertaking the development, including expenses incurred in complying with conditions imposed under this approval.*
- 24) *Any existing State Survey Mark or Cadastral Survey Mark shall be preserved during construction and not disturbed unless authority has been obtained from the Surveyor-General in accordance with the Surveyor-General's Directions published by the NSW Land and Property Information Service. In this regard, the Principal Contractor is responsible for the protection of the mark.*

#### **During Construction or Works**

##### **General**

- 25) *Work for this development 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.*
- 26) *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.*
  - 27) *The approved Traffic Management Plan shall be maintained at all times.*
  - 28) *The approved Traffic Control Plans (TCP) shall be maintained at all times when work is undertaken within a dedicated road reserve.*
  - 29) *Erosion and sediment control measures in accordance with the approved ESCP are to be maintained by the developer at all times.*
  - 30) *Dust control measures are to be in place or are to be undertaken for the duration of the works to prevent dust from affecting the amenity of the immediate area during construction. The applicant is to ensure controls are maintained for the duration of the works and is to inspect the control for this purpose at frequent intervals. Any deficiencies are to be immediately made good.*
  - 31) *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.*
  - 32) *Any damage caused to Council infrastructure during in, on or under the road reserve 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.*
  - 33) *If the work involved in the construction of the development is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the closure of a public place, approval from Council's Transport & Assets Division is required.*
  - 34) *If during works, there is any contamination identified, works are to cease, Council's Environmental Health Officer is to be contacted and the appropriate actions undertaken in accordance with State Environmental Planning Policy No 55-Remediation of Land. A copy of all reports regarding the contamination of land and remediation works is to be provided to Council.*
  - 35) *The archaeological sites identified in the Archaeological Survey prepared by Patrick Gaynor dated 2005 shall be located and identified on the residue allotment to ensure that no works or any disturbance to these sites occurs as a result of the works associated with the subdivision.*
  - 36) *Under no circumstances are any works, including the stockpiling of any materials or works associated with the installation of services, to be carried out within the*
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*vicinity of the identified sites without the necessary approvals being obtained.*

- 37) *Should any aboriginal artefacts or relics be discovered during construction of the subdivision, works shall cease in the vicinity of that artefact or relic until suitable action has been taken to protect and preserve the artefact or relic and an officer of the Office of Environment and Heritage advises that work can commence.***
- 38) *Wherever possible, existing native trees and mistletoe species shall be retained within the individual allotments and open spaces.***

#### **External Roads – Moore Creek Road**

- 39) *Should any works within the Moore Creek Road road reserve necessitate installation/extension/removal/disposal/reinstatement of any existing infrastructure or materials, all works and costs will be at the developer's expense.***
- 40) *Road widening of 5.0 metres shall be dedicated to Council on the Moore Creek Road frontage for Lot 65 in DP 753851.***

#### **Internal Roads**

- 41) *Full width road construction that satisfies Road Design Standard One (RDS1) of Council's current version of the Engineering Design Minimum Standards for Subdivisions and Developments is required for the full frontage and/or sideage of all lots to ensure that public road facilities are established at an appropriate standard having regard to the traffic generated by the proposed development.***
- 42) *All internal roads for this development shall be designed in accordance with the requirements for R2-Low Density Residential 'Collector' and 'Local' Road Classifications as defined in Table B of Council's current version of the Engineering Design Minimum Standards for Subdivisions and Development.***
- 43) *Notwithstanding any requirement above and to ensure consistency throughout the development, all road reserve(s) and pavement widths within the proposed development where it is a continuation from any previous stage may not be less than currently constructed road and pavement widths from the respective previous stages.***
- 44) *Temporary bitumen sealed turning circles of minimum radius 10 metres shall be provided outside the end of all roads where future stages of development are proposed. The turning circle shall be located wholly within the road reserve provision and shall be dedicated as such prior to the issue of a subdivision certificate for that stage. Temporary sight boards shall also be provided.***
- 45) *Where required, any proposed speed control devices nominated for use within the development shall be clearly illustrated on a plan and forwarded to Local Traffic Committee (LTC) for consideration. LTC approval for these devices will need to be obtained to satisfy this condition.***
- 46) *The proposed roundabout at Kestrel Street and Road No. 2 (Fairymartin Lane) is to be designed in accordance with TRC's Engineering Design Minimum Standards for Subdivisions and Development and Austroads Guide to Road Design Part 4B.***

***Advisory Note: Any landscaping shall be shown on the design drawings and included in the landscaping plan. Any proposed landscaping shall not interfere with the design sight distances of the roundabout.***

- 47) *New intersections associated with this development shall be located and***
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*designed in accordance with the requirements of Section 2.10 of Council's current version of the Engineering Design Minimum Standards for Subdivisions and Development.*

- 48) *The road hierarchy shall identify bus routes. Pavement widths for bus routes shall be 13 metres unless the applicant demonstrates that consultation has taken place with the local bus companies to identify potential bus stops within the development, in which case the bus bays must be constructed and pavement widths may be reduced to 11 metres (where the road is a 'collector' road in Council's road hierarchy).*

#### **Stormwater**

- 49) *Stormwater drainage systems for each stage of the subdivision shall be designed to comply with Drainage Design Standard Two (DDS2) of Council's current version of Engineering Design Minimum Standards for Subdivisions and Development.*

- 50) *Proposed detention basin number 2 shall be designed such that the internal and external batters are in accordance with the current version (at the time of construction) of the Engineering Design Minimum Standards for Subdivisions and Development. The basin shall be landscaped in accordance with Council's current version of Engineering Design Minimum Standards for Subdivisions and Development.*

- 51) *A maintenance allocation of width 3m shall be provided around the base of proposed detention basin 2 as per the Engineering Design Minimum Standards for Subdivisions and Development.*

- 52) *Detention is required for this development.*

*Notwithstanding any conditions imposed by DA2017/0305, Proposed Basin 2 shall be constructed to detain flows to pre-developed rates across the range of 1:1 to 1:100 year ARI event for the entire site apart from flows directed to adjoining properties by agreement.*

*For any stages of the development where undetained flows are directed to adjoining properties, a written agreement shall be provided to Council indicating the land owners consent prior to the issue of a Construction Certificate for the respective stage.*

*Any agreement shall be outlined in the appropriate easement(s) in favour of the benefitting lot(s) on the title prior to Subdivision release for the respective stage.*

- 53) *Should it be determined that insufficient space has been provided for proposed Basin 2, the lot and/or road layout for the development site shall be revised so that sufficient room is provided for construction and operation of the basin(s).*

- 54) *Any land associated with the proposed stormwater system within the development site shall be dedicated to Council as Drainage Reserve with the exception of any required inter-allotment drainage.*

- 55) *Inter-allotment stormwater drainage systems shall be designed to accommodate the National Construction Code requirements for stormwater discharge from residential buildings and be constructed to provide adequate drainage facilities for each lot.*

*If the inter-allotment system is designed so that drainage water is discharged*

*within pipes through privately owned properties. Easements shall be provided on each lot over the inter-allotment drainage system. The easement shall be in favour of the lots/land that benefit.*

- 56) The developer shall be responsible for the maintenance of detention basin 2 until such time that all stages draining into the basin are complete.*
- 57) Where drainage systems form part of a further stage of development, temporary gross pollutant trap(s) shall be installed at the end of each minor drainage line for each stage of the development.*
- 58) The stormwater strategy shall include appropriate protection measures for newly created lots from upstream flows. In fulfilling the requirements of this condition any protection measure constructed shall have the appropriate planning instrument (i.e. 88B/Easement) put into place.*

#### **Shared Paths and Footpaths**

- 59) A 100mm thick boundary line non-slip reinforced concrete shared path/footpath complete with pram ramps and jointed in accordance with Council's Standard Drawing 18655D shall be constructed within one footway for each newly created road reserve. The width of any shared path shall be at minimum 2.5m and the width of any footpath shall be at minimum 1.5m as to be sympathetic with existing stages of the development.*

#### **Allotment Filling**

- 60) Any allotment filling shall meet the requirements of AS3798 (as amended) – Guidelines on Earthworks for Commercial and Residential Developments.*

*Certification of the allotment filling shall be provided by a geotechnical testing authority registered under NATA. The testing authority shall be required to certify whether the fill complies with the requirements of AS2870.1 (as amended) – Residential Slabs and Footings – Construction, as “controlled fill”.*

#### **Street Lighting**

- 61) Street lighting is to be provided to ensure an acceptable level of lighting for pedestrian traffic and security for the development site.*

*Street lighting within the development site shall be provided, and shall comply with the requirements of AS/NZS1158 (as amended) to the following classification:*

- a) Minor – Local P4 – All lamps associated with the approved electrical design shall be LED.*

*Street lighting for the proposed roundabout within the development shall be provided and comply with the requirements of AS/NZS1158 (as amended) to the following classification:*

- a) V5 for all roundabouts on collector roads - All lamps associated with the approved electrical design shall be LED.*
- b) P3 for all roundabouts on local roads - All lamps associated with the approved electrical design shall be LED.*

*Note: No electricity lines shall traverse any residential allotment.*

#### **Landscaping**

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- 62) *Street trees shall be provided as required by the Tamworth Regional Council Development Control Plan 2010 and in accordance with Council's Engineering Design Minimum Standards for Subdivisions and Developments.*
- 63) *In addition to condition 62, approved landscaping is to be implemented and maintained along Moore Creek Road and Browns Lane for the full frontage of the development in accordance with each stage of the development to ensure an appropriate visual outcome is achieved for the site boundaries.*

**Prior to Issue of a Subdivision Certificate**

- 64) *All works as required by these conditions of consent for the relevant stage for which a Subdivision Certificate is sought, shall be complete.*
- 65) *A written acknowledgement that all conditions of consent have been complied with and the subdivision plan is in accordance with the approved Development Application is to be submitted with any application for a Subdivision Certificate.*
- 66) *A copy of the final inspection sign off form from Council's Water Enterprises Directorate or written confirmation that all required conditions of consent imposed by Council's Water Enterprises Directorate have been satisfactorily addressed is to be submitted.*
- 67) *A copy of the final inspection sign off form from Council's Strategy & Development Division or written confirmation that all required conditions of consent imposed by Council's Strategy & Development Division have been satisfactorily addressed is to be submitted.*
- 68) *A Maintenance Bond in accordance with Section 1.7.3 of the current version of Council's Engineering Design Minimum Standards for Subdivisions and Development shall be paid to Council.*
- 69) *Where agreement with Council has been reached, any works that are incomplete within the road reserve prior to the release of the subdivision certificate shall be performance bonded. Performance bonds shall be derived in accordance with Section 1.7.2 of the current version of Council's Engineering Design Minimum Standards for Subdivisions and Development and payment made to Council. All works subject to a performance bond shall be complete prior to 12 months after the release of the Subdivision Certificate for any respective stage.*

*In this regard, if the performance bond is made for street tree installation, the bond shall include provision for six months of watering to ensure the trees are appropriately established. The bond will be retained until this six month maintenance period has concluded and in the event any trees require replacement they shall be replaced at the developer's expense.*

- 70) *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.*

*One A1 hard copy, a scanned electronic 'PDF version and an AutoCad 'dwg' version of the signed "Work-as-Executed" plans shall be submitted to Council in accordance with requirements of the guidelines to ensure that adequate records are maintained of community infrastructure.*

- 71) *A deed of agreement shall be entered into between Council and the applicant prior to issue of the first Subdivision Certificate to dedicate the "future park" as*
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*part of Stage 4B of the subdivision. Specific design elements of the park shall be assessed by Council post dedication but prior to commencement of any construction work associated with the park.*

- 72) A Restriction as to User, pursuant to Section 88B of the Conveyancing Act, 1919, is to be registered on those lots adjoining the Environmental Land (Lot 833 DP 1220826) to identify an appropriate building envelope with suitable buffer no less than any required Asset Protection Zone under the Rural Fires Act 1997.*
- 73) A Restriction as to User, pursuant to Section 88B of the Conveyancing Act 1919, is to be registered on those lots where the boundary adjoins, or is parallel with, Moore Creek Road which prohibits the erection of continuous and solid panel fencing or any other solid panel fencing.*
- 74) A Restriction as to User, pursuant to Section 88B of the Conveyancing Act 1919, is to be registered on proposed Lots 401-408 and proposed lots 426-429 adjoining the Moore Creek Road road reserve to identify that direct lot access is prohibited from Moore Creek Road.*
- 75) Road widening of 5.0 metres shall be dedicated to Council on the Moore Creek Road frontage for Lot 65 in DP 753851 and shall be registered with Land and Property Information with the Subdivision Certificate for those stages having frontage to Moore Creek Road (stages 4A and 4B on the staging plan).*
- 76) For developments where allotment filling has been carried out, the “Work-As-Executed” plans shall indicate the contours prior to and after filling and the associated compaction test results.*
- 77) For developments where allotment filling has been undertaken, a copy of the NATA testing authority certification of compliance to the requirements of AS2870.1 (as amended) – Residential Slabs and Footings – Construction, shall be submitted to Council.*
- 78) All test results, material certificates, non-conformance reports and signed off Hold/Witness Points as required by the Inspection and Test Plan (ITP) shall be submitted to Council to verify the Quality of the completed product.*
- 79) A provisioning confirmation letter shall be submitted with the application for a Subdivision Certificate to confirm that each lot is serviced with telecommunications infrastructure in accordance with recognised standards.*

*Where a provisioning letter from a telecommunications provider cannot be obtained, the following will be accepted:*

- a) evidence of all communication with the telecommunications provider and a statement confirming that the telecommunications provider have either not responded over an excessive period or have indicated that they will not provide a provisioning letter, and lodgement of complaint with the Telecommunications Ombudsman which includes an authorisation for Council to liaise directly with the Ombudsman to be advised on the administration of the complaint and outcome;*
  - b) written confirmation from the contractor that the telecommunications pits and conduits have been installed in accordance with the development consent and relevant standards; and*
  - c) an 88B instrument that includes a positive covenant to identify to potential*
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*purchasers that at the time of registration of the plan of subdivision, the lot may not have any telecommunications service or provider, and determining the availability of such a service and the provision of the service is the responsibility of the owner of the lot.*

*Note: Contact Council for the wording of the positive covenant for inclusion in the 88B instrument.*

- 80) Notification shall be provided that satisfactory arrangements have been made with Essential Energy to ensure that electricity supply infrastructure is available to each lot in accordance with community expectations.*
- 81) Certification shall be provided that street lighting design and installation complies with the requirements of AS1158 (as amended).*
- 82) Easements for utilities and services, including stormwater and sewer, 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.*
- 83) 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 a Subdivision Certificate.*

*Council requires the following works to be completed and/or payments received prior to issue of a Compliance Certificate.*

*a) Water*

*Council's water reticulation system shall be extended to provide adequate service to the development;*

- i. a single water service shall be provided to each lot;*
  - ii. the water extension shall be in accordance with Council's Water Supply Strategy;*
  - iii. a satisfactory Water Servicing Strategy for the proposed development, including water network analysis and any proposed staging is to be provided for approval by Council prior to the submission of detailed engineering drawings and application for any Construction Certificate;*
  - iv. the Water Servicing Strategy should also indicate how this development interacts with the adjoining Rural Residential developments;*
  - v. the water main extension is to be connected to the existing water main within Jubata Drive, reticulated throughout the proposed development and provide interconnection with adjoining developments. The proposed water servicing strategy is to consider security of supply, staging and future ongoing maintenance;*
  - vi. detailed engineering drawings for the extension of water supply shall be prepared and submitted for approval by Council prior to issue of any Construction Certificate;*
  - vii. work shall be undertaken in accordance with Council's Engineering Design Minimum Standards for Subdivisions and Development; and*
  - viii. work on live water mains shall be undertaken by Council at full cost to*
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*the developer.*

*Note: The water meters will not be connected until the subdivision has been released by Council.*

**b) Sewer**

- i. Council's sewerage system shall be extended to provide adequate service to the development;*
- ii. a single sewer service shall be provided to each lot;*
- iii. the sewer extension shall be in accordance with Council's Sewerage Strategy;*
- iv. a satisfactory Sewer Servicing Strategy for the proposed development, including any proposed staging, is to be provided for approval by Council prior to the submission of detailed engineering drawings and application for any Construction Certificate;*
- v. the Sewer Servicing Strategy shall include the location of Council's existing trunk sewer main through the development, proposed connection points to this trunk main and loading on reticulation mains;*
- vi. the Sewer Servicing Strategy should also indicate how this development interacts with the adjoining Rural Residential developments;*
- vii. detailed engineering drawings for the extension of sewer system shall be prepared and submitted for approval by Council prior to issue of any Construction Certificate;*
- viii. work shall be undertaken in accordance with Council's Engineering Design Minimum Standards for Subdivisions and Development;*
- ix. work on live sewer mains shall be undertaken by Council at full cost to the developer; and*
- x. sewer easements of minimum 3.0m width are to be provided over all sewer mains within private property.*

**c) Headworks Contributions**

- i. Water - Hills Plain Water Supply Development Servicing Plan \$11,176 per lot; and*
- ii. Sewer - Hills Plain Sewerage System Moore Creek / Manilla Road Catchment \$4,349 per lot.*

*Note: The above headworks contributions have been adopted under the 2017/2018 Council Annual Operational Plan. Revised rates adopted in subsequent Annual Operational Plans will apply to Headworks Contributions paid in later financial years.*

- 85) **a)** *In accordance with Section 4.7(1) of the Environmental Planning and Assessment Act 1979 and the Tamworth Regional Council Section 94 (Direct) Development Contributions Plan 2013, the following monetary contributions shall be paid to Council to cater for the increased demand for community infrastructure resulting from the development:*

<b>Description</b>	<b>Contribution (\$) per lot in 2018/2019</b>
<b>Roads</b>	<b>7,127.00</b>
<b>Open Space Embellishment</b>	<b>504.00</b>
<b>Plan Preparation and Administration</b>	<b>260.00</b>
<b>TOTAL</b>	<b>7,891.00</b>

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

$$\$C_{PY} = \frac{\$C_{DC} \times CPI_{PY}}{CPI_{DC}}$$

*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.*

- c) *The monetary contributions shall be paid to Council prior to the issue of the Subdivision Certificate where development is for subdivision.*

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

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

**APPLICATION DETAILS:**

Application No.	DA2018-0414
Application For:	Residential subdivision to create 161 lots plus residue in 11 stages
Date Received:	23 February 2018
Applicant:	Tamworth Land Company
Owner:	Tamworth Land Company

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Land/Address:	Lot 318 in DP 1230183 and Lot 65 in DP 753851 Glenmore and Jubata Drives/Moore Creek Road, and 525 Moore Creek Road, Moore Creek
Zoning:	R2 Low Density Residential - <i>Tamworth Regional Local Environmental Plan 2010</i>

### DESCRIPTION OF PROPOSAL:

The proposal is for the continued expansion of the subdivision known as “Moore Creek Gardens Estate” located on land to the north west of the Moore Creek Road and Browns Lane intersection. A number of stages have already been developed within the Estate which has direct vehicular access from Browns Lane via Jubata Drive and Bluebell Way.

The proposal is for the subdivision of the land into 161 residential lots and one residue lot, comprising a combination of 1000m<sup>2</sup> lots and 2000m<sup>2</sup> lots, to be developed in 11 stages. Lots to be developed around the perimeter of the subject site shall be subdivided into 2000m<sup>2</sup> minimum sized lots (Stages 6A, 6B, part 4A and part 4B), with the remaining internal lots to developed into 1000m<sup>2</sup> minimum sized lots (Stages 2, 7, 4C and part 4A and 4B).

An amendment to the *Tamworth Regional Local Environmental Plan 2010* (TRLEP 2010) in 2016, reduced the minimum lot sizes for subdivision and consequently, the proposed development (161 lots) will cater for an additional 65 lots from a previous approval under a separate application (DA0037/2006) which was for 96 lots.

The layout for the proposed subdivision is generally consistent with the previously approved subdivision in terms of road layout, the extension of Jubata Drive and Glenmore Drive, stormwater design and the boundaries of the development.

The development will be serviced with reticulated water and sewer, electricity supply, and waste collection services.

Earthworks, drainage, installation of utility services and infrastructure, implementation of sedimentation and erosion control measures and landscaping is included as part of this development application.

The majority of the development is located within Lot 318 DP1230183. Lots along the northern side of proposed Road Two partially straddle the boundary with the adjoining Lot 65. The development site has an approximate area of 29 hectares.

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

### BACKGROUND:

Development consent (Development Consent DA0037/2006 as amended by MOD2017/0009) was issued over the entire “Moore Creek Gardens” site on 30 August 2011, for the development of 317 residential lots. The land the subject of this proposal is generally identified as Stages 7, 12, Part of 13, 8A and 8B on the approved stamped plan. Development in the southern portion of the site generally provided for 2000m<sup>2</sup> lots, with development to the north and west of the site providing 4000m<sup>2</sup> lots. A copy of the stamped plan for DA0037/2006 is **ATTACHED**, refer **ANNEXURE 2**.

The *TRLEP 2010*, has since been amended to reduce the minimum lot size for the locality, enabling part of the land to be developed for 1000m<sup>2</sup> lots and the remaining land to be developed for 2000m<sup>2</sup> lots. This amendment was the result of a Planning Proposal endorsed at the Ordinary Meeting of Council on 25 October 2016, and subsequently notified on the

NSW Legislation website on 2 December 2016, as Amendment No. 10 to the *TRLEP 2010*. The Hills Plain Development Control Plan has also been amended to reflect the masterplan for the entire site.

Since the amendment to the *TRLEP 2010*, a separate development application (DA2017/0305) has been approved by Council for the redevelopment of Stage 10 to the south to increase the lot yield in accordance with the revised minimum lot size mapping. A copy of this stamped plan for DA2017/0305 is **ATTACHED**, refer **ANNEXURE 3**.

A common theme in submissions received by Council during the exhibition period of the subject development application relate to the lack of community consultation during the Planning Proposal process and the impact of the smaller lot sizes on the existing semi-rural character of the area. Further, that the proposed subdivision is not consistent with the original Hills Plain Concept Plan.

The changes to the *TRELP 2010*, were subject to the processes prescribed under the *Environmental Planning and Assessment Act 1979*, including a formal community consultation process as a requirement of the Gateway Determination for the Planning Proposal. Consequently, the concerns raised with regard to the Planning Proposal processes, including the resulting minimum lot sizes, are not matters for consideration for the subject development application.

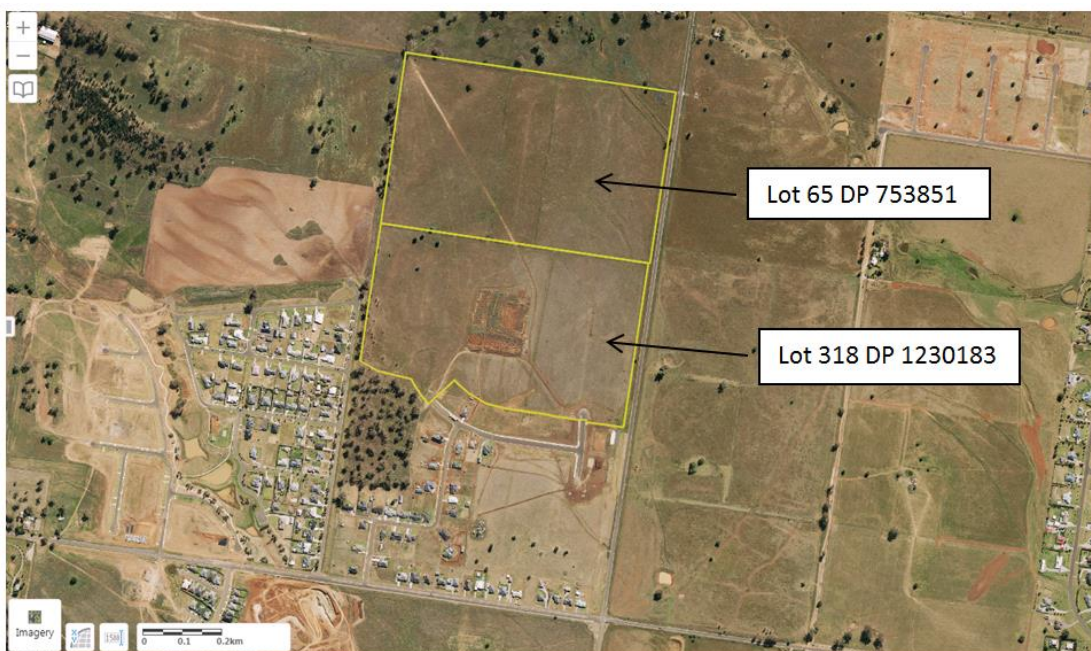
The proposal the subject of the current development application generally relates to the infill development of Lot 318 DP1230183, seeking approval to subdivide the parcel consistent with the revised minimum lot size mapping. The proposed subdivision layout is consistent with the subdivision plan considered in conjunction with the *TRLEP 2010* amendment, and adopted by Council in the Hills Plains Development Control Plan.

**SUBJECT SITE AND LOCALITY MAP:**

The subject site forms part of the developing residential estate identified as "Moore Creek Gardens Estate". The land the subject of this proposal is described as follows:

- Lot 318 DP1230183, being 525 Glenmore Drive/Moore Creek Road, Moore Creek; and
- Lot 65 DP753851, being Glenmore Drive, Moore Creek.

The site has access to existing electricity supply services, and reticulated water and sewerage services.



**ASSESSMENT REPORT:**

The following matters listed under Section 79C of the *Environmental Planning and Assessment Act 1979*, are relevant in considering this application:

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

**Biodiversity Conservation Act 2016**

On 25 August 2017, land management and biodiversity conservation reforms were commenced with the introduction of a new legislative framework in the Biodiversity Conservation Act 2016. To enable a smooth transition to the Biodiversity Conservation Act 2016, transitional arrangements were in place. The subject application was received by

Council during the transitional period and therefore consideration of the Biodiversity Conservation Act 2016, is not required.

Notwithstanding, due consideration of potential impacts on the environment will be further considered in following sections of the report.

### **State Environmental Planning Policies**

#### State Environmental Planning Policy No. 44 – Koala Habitat Protection:

The site was assessed for its likelihood of supporting koalas as part of the Flora and Fauna Assessment undertaken by Harper Somers O’Sullivan dated June 2005. It was found that one species of tree listed in Schedule 2 'of the SEPP as a 'Koala Feed Tree Species' occurs on the site, namely *Eucalyptus albens* (White Box).

*E. albens* occurs as the dominant canopy species, in the Box Woodland remnants on the site. Within this community the numbers of *E. albens* occurs at a density greater than 15% of the total tree canopy, and therefore constitutes 'Potential Koala Habitat' as defined by SEPP 44.

For a site to be considered as 'core koala habitat' under the guidelines set out in SEPP 44, there must be signs of current koala use or historical records of their presence on a site. During fauna surveys of the site no sign of koalas were observed and the site does not adjoin land where koalas can be found. During searches of known koala records for the Tamworth Regional area, no records of koalas were found within a 10km radius of the site. Therefore no further provisions of the policy would apply to the site.

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

Clause 7 of SEPP 55, requires a consent authority to consider whether land is contaminated based on the knowledge of previous land uses on the site, and whether the land is suitable, or can be made suitable, for the purposes of its intended future land use.

The potential for any site contamination at the subject property was investigated as part of a previously approved development application (DA0037/2006) in 2011. It was determined then that the potential for contamination at the site was low and that the site was suitable for future residential use. Notwithstanding, it is recommended that the following standard condition is imposed:

*“Should any contaminants (or potential contaminants) be discovered during the construction of the subdivision, all work must cease immediately and Council's Environment and Health Division must be contacted to arrange for an inspection of the site.”*

#### State Environmental Planning Policy (Infrastructure) 2007:

### **Regional Strategies**

The *New England North West Regional Plan 2036*, was released in August 2017. The Plan provides an overarching framework to guide development and investment in the New England North West over the next 20 years (to 2036) by consolidating strategic planning considerations for land use and infrastructure across 12 local government areas.

This region is expected to grow by 13,800 people during this period to reach a population of over 202,000, with the two regional cities of Tamworth and Armidale supporting over half of the region's population.

A key principle of the Plan is to guide the locations for new housing and provide a diversity of housing choice, and coordinate land uses with infrastructure and services investment.



The proposed development is considered to be consistent with the Regional Plan as it contributes towards meeting the demands for the supply of residential housing in an identified locality and utilises existing infrastructure investment.

### **Tamworth Regional Development Strategy**

The *Tamworth Regional Development Strategy 2008*, aims to provide strategic direction to Council to manage urban growth across the Tamworth LGA.

The Hills Plain area has been identified within the Strategy to accommodate future residential and rural residential development. It provides for an ultimate population of up to 10,000 people over the next 60 years to be located within four distinct housing areas providing for varying densities of development.

The subdivision will provide additional stock and opportunities for a variety of housing types in response to changing demands.

The proposed development is considered to be consistent with the directions of the Development Strategy.

### **Local Environmental Plan**

#### *Tamworth Regional Local Environmental Plan 2010:*

##### *Clause 2.1 and 2.2 Land use zone and permissibility*

The subject land is zoned R2 Low Density Residential. The objectives of the R2 zone are:

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

It is considered that the subdivision layout is adequately designed and sized to provide for future low density urban housing opportunities. The development of this site is consistent with the future redevelopment of the locality and is consistent with the long term strategic vision for this locality.

Consequently, the proposal is consistent with and satisfies the objectives of the zone.

##### *Clause 2.6 – Subdivision – consent requirements*

Clause 2.6 of the TRLEP 2010 provides that land to which this Plan applies may be subdivided with consent. The proposed subdivision is permissible with development consent.

#### *Part 4 - Principal Development Standards*

##### *Clause 4.1- Minimum Subdivision Lot Size*

This clause permits a minimum subdivision lot size of 1000m<sup>2</sup> for the area marked 'U' which comprises the majority of the subject site, and a minimum lot size of 2000m<sup>2</sup> for the area marked 'V' on the TRLEP 2010 Lot Size Map. All of the proposed lots satisfy the minimum lot size requirements.

As stated in the submitted Statement of Environmental Effects (SEE), the subdivision has been designed with larger lots around the boundaries and the smaller lots located within the central area of the estate. Each of the lots to be created is considered to be of an appropriate size and shape to provide for future residential dwellings and can provide for a suitable building envelope behind the building line.

The land is not located within a heritage conservation area, nor is subject to mine subsidence, or bushfire prone land.

*Part 6 - Urban Release Areas*

Part 6 of the *TRLEP 2010* refers to Urban Release Areas (URAs). Part of the site of the proposed subdivision is located within the identified Urban Release Area of Hills Plain. The following clauses relate to provisions for Urban Release Areas:

*Clause 6.1- Arrangements for designated State public infrastructure*

This clause requires satisfactory arrangements to be made for the provision of designated State public infrastructure before the granting of consent for the subdivision of land in an Urban Release Area (URA).

A Planning Agreement (PA) has been entered into between the landowners and the Minister for Planning (executed 29 January 2019) under the provisions of Section 7.4 of the *Environmental Planning and Assessment Act 1979*, to achieve satisfactory arrangements.

The Agreement makes arrangements for the payment of a State Infrastructure Contribution (SIC) for the purpose of providing amenities or services to satisfy needs that arise from intense urban development on the land.

*Clause 6.2 - Public utility infrastructure*

Reticulated water, sewer and electricity supply services are available and can be provided to the residential subdivision, as development progresses in accordance with Council's requirements.

**s.4.15(1)(a)(ii) Provisions of any draft environmental planning instrument**

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

**s.4.15(1)(a)(iii) Provisions of any Development Control Plan**

*Tamworth Regional Development Control Plan 2010:*

*Subdivision Controls*

*Servicing – Water and Sewer*

Reticulated water and sewer are available to the land and are proposed to be extended to service the development in accordance with the Development Servicing Plan. Comments were sought from Council's Water and Waste Division and no concerns were identified.

In a submission received by Council during the exhibition period, the issue of water availability was raised. It is acknowledged that water restrictions are in place to address the impact of water availability. Council's Demand and Drought Management Plans are in place to respond to current climate trends. Additionally, Council continues to investigate options for water supply to accommodate future growth of the Tamworth Region.

*Servicing - Stormwater and drainage*

A Stormwater Drainage Report has been prepared to support the development of the site by GCA Engineering Solutions (April 2016). This was referred to Council's Strategy and Development Division for comment.

The site comprises part of a wider development footprint. As stated in the submitted SEE, the proposed subdivision design is consistent with the stormwater management strategy

prepared for the development of the catchment for 500 residential lots under DA0037/2006 (as modified by MOD2017/0009).

Basin 1, located at the intersection of Glenmore and Jubata Drives, presently serves the existing development. Stormwater Basin 2 which has been approved under a previous approval (DA0037/2006 as modified by MOD2017/0009), is located in the north-eastern corner of the site. This basin is required to be in place prior to the release of Stages 10C, 10D or 10E identified in DA2017/0305 and is due to commence construction upon approval of the associated Construction Certificate.

In accordance with the previous strategy, Basin 2 is sized to accommodate the subdivision under construction and this proposed development. Additional basins will be provided to accommodate drainage for the development of the remaining land to the north, as identified in the previously approved plans and the entire concept masterplan for the Moore Creek Gardens Estate.

While no concerns have been raised by Council's Strategy and Development Division within regard to stormwater and drainage, a number of conditions have been recommend to be imposed.

#### *Electricity and Telecommunications*

Electricity and telecommunications supply are available to the land and will be extended to service the development. The subdivision is to be serviced with underground electricity. A standard condition can be imposed requiring the submission of certification that such services are available to service the lots.

#### *Lot Size, Design and Layout*

All proposed lots within the subdivision are at least 1000m<sup>2</sup> or 2000m<sup>2</sup> reflective of their location in accordance with the minimum lot size map. All lots are considered to be an appropriate size and shape capable of supporting a future residential dwelling.

As stated in the submitted SEE, the design and layout of the proposed lots reflects the constraints of the site, the surrounding development and topography. It is considered that each lot provides flexibility in both the choice of housing design and the siting of the house within the lot, and that the subdivision layout has been designed to maximise solar access.

The development has access to the local road network directly via the new intersection constructed at Browns Lane and Jubata Drive, and through the existing residential estate via Bluebell Way and Glenmore Drive.

One issue raised in submissions relates to fencing of the allotments. Comments received from Council's Senior Strategic Planner also noted that when the minimum lot size regime of the subject lands was amended in 2016, submissions were received raising concerns about the potential use of colour-bond fencing and the possible reduction in amenity of the overall area. At that time, the use of a restrictive covenant under the *Conveyancing Act 1919*, was suggested or alternatively, require the developer to construct a particular type of fencing (for example timber) to assist in mitigating the impact. These measures have been considered during the assessment of the proposal and the following points are noted:

- exemptions for the construction of certain types of fencing, including factory pre-coloured metal fencing, within the R2 zone are specified within *Subdivision 17 Fences of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. These exemptions could potentially contradict and override any requirement imposed in a S.88B instrument requiring the construction of a certain type of fence;

- existing allotments (which have a MLS of 2000m<sup>2</sup>) within the adjoining stages already have rural style fencing and therefore it will be the joint responsibility of the property owners to determine whether a replacement “solid” fence could be constructed at the rear;
- should metal fencing be constructed, it is considered that given the minimum size of these allotments is 1000m<sup>2</sup>, there is opportunity for the establishment of landscaping within these lots to assist in reducing any visual impact; and
- rural style fencing will be used for the those lots fronting Moore Creek Road which have a minimum lot size of 2000m<sup>2</sup>.

On this basis, no restrictions relating to the construction of boundary fences on those lots less than 2000m<sup>2</sup> shall be imposed. However, as is the case with the current approval relating to the site, conditions are recommended to be imposed requiring that a S.88B instrument apply to those lots parallel to Moore Creek Road, prohibiting the erection of continuous or solid metal panel fencing or any other solid panel fencing at the boundary of any of these lot where the boundary adjoins, or is parallel with, Moore Creek Road.

It is further noted that Lots 401-408, and 426-429 all have rear frontage to Moore Creek Road and contain a 7.0-metre wide easement for landscaping.

Another concern raised during the exhibition period in relation to the proposed subdivision layout include the lack of green spaces and concern that the design does not provide a proportional increase in recreational and green spaces which will have the effect of causing more traffic as people will need to travel by car to access these facilities. A lack of cycleways and trails was also identified as a concern.

A pedestrian link is to be provided through the subdivision to the south-west to the public reserve. This connects through to the adjoining subdivision to the west. The internal road network is to comprise 11-metre wide pavements with a pedestrian pathway along one side.

With regard to the provision of green spaces, the “future park” located adjacent to the proposed basin No.2 will be dedicated to Council as part of Stage 4B of the subdivision. Specific design elements of the park can be assessed by Council post dedication but prior to commencement of any construction work associated with the park. This is discussed in more detail under consideration of “open space”.

It is also noted that the proposed subdivision layout is consistent with the subdivision plan considered in conjunction with the *TRLEP 2010* amendment, and has been adopted by Council in the Hills Plains Development Control Plan.

#### *Road Network*

The proposal was referred to Council’s Strategy and Development Division for comment and no concerns have been raised with regard to the proposed road network and the capacity of the network to accommodate the number of vehicle movements generated by the development.

A number of concerns relating to the proposed road layout were raised in submissions received during the assessment of the application. Specifically, the lack of a direct road access off Moore Creek Road and concern regarding potential traffic congestion along Jubata and Glenmore Drives given the increase in the number of lots from that originally approved.

The initial subdivision approved under DA0037/2006 included an access off Moore Creek Road. A Traffic Impact Assessment was prepared by BJ Bradley & Associates Consulting

Civil and Traffic Engineers (October 2015) seeking an amendment to the access requirements in the adopted Hills Plain Development Controls of the *TRDCP 2010*. Following Council approval, the internal road layout of the Moore Creek Gardens Estate was redesigned to remove the access onto Moore Creek Road and provide a second access road onto Browns Lane, approximately 170 metres west of Moore Creek Road (Jubata Drive/Browns Lane intersection). Consequently, Council can be satisfied that a direct access from Moore Creek Road is not critical to the road network design.

With regard to traffic movements along Glenmore and Jubata Drives, it is noted that the proposed road layout is generally consistent with the existing development consent over the land. That is, the primary access into the Estate remains as per the current approval being from the western end of Browns Lane via Bluebell Way to connect with Glenmore Drive. This is proposed to extend north in the west of the site and provide a future connection to Bournes Lane.

Glenmore Drive is the primary collector road through the estate with a 13-metre wide pavement, capable of supporting a bus route. An off-road pedestrian pathway and an on-road cycleway is proposed to be provided along Glenmore Drive through the estate.

The remaining internal road network of Jubata Drive, Kestrel Street, Peppergrass Court and Road 2 (Fairymartin Lane), will comprise 11-metre wide pavements with a pedestrian pathway along one side. It is proposed that, subject to further consent, Jubata Drive will provide a return link with Glenmore Drive in the north west of the site and is adequate to support a school bus route.

An indicative four-way intersection treatment is proposed at Road 2 (Fairymartin Lane) and Kestrel Street. An 11-metre pavement is considered adequate in this location to accommodate local through traffic.

All lots have public road frontage. There are no battle-axe lots proposed within the subdivision. A pedestrian link is provided through the subdivision to the south-west to the public reserve. This connects through to the adjoining subdivision to the west.

As is the case with the current approval relating to the site, conditions may also be imposed requiring that an 88B instrument apply to Lots 401-408, and 426-429 (all have rear frontage to Moore Creek Road) prohibiting direct vehicular access to these lots from Moore Creek Road.

On this basis, the road network is considered suitable to support the proposed development. A number of conditions are recommended to be imposed to ensure that the road network is constructed in accordance with the relevant standards and guidelines.

#### *Staged Subdivision*

The subdivision is proposed to be staged as per the table provided on the submitted staging plan, as **ATTACHED**, refer **ANNEXURE 1**, of this report. It is noted however, that the numerical ordering of the stages does not reflect the timing of the release. Rather these stages were based around the current approved plan. This was confirmed by the applicant who indicated the intention is to construct Stage 4A and 4B, with progression of the extension of the constructed roads into the remaining stages.

#### *Future Development*

Given the site is zoned R2 Low Density Residential, dual occupancy and multi dwelling development is not permissible on the subject lots.

#### *Cul-de-sac*

No cul-de-sacs are proposed as part of this development.

#### *Landscaping*

The implementation of landscaping as part of the development was identified during the public exhibition period as being an important design consideration to assist in maintaining the rural/semi-rural character of the area.

Submissions received by Council include suggestions to implement a dedicated tree planting program and targeted investment in vegetation in key areas to disguise the higher density design. Street tree planting will be required to be implemented in accordance with Council's Engineering Design Minimum Standards for Subdivisions and Developments. A Landscaping Plan will be required to be submitted to Council with the Construction Certificate. Stages already released within the subdivision include roadside planting of native eucalypt species.

A submission received by Council suggested landscaping of the existing and proposed stormwater basins. However, landscaping of the banks and within the basins have the potential to impact on the integrity and functionality of the basins.

#### *Site Access*

Each lot has frontage to a public road.

#### *Lot Orientation*

Given that all proposed lots within the subdivision are at least 1000m<sup>2</sup>, each of the lots are considered to be an appropriate size and shape capable of supporting a future residential dwelling, and capable of providing flexibility in both the choice of housing design and the siting of the house within the lot. The subdivision layout is also considered capable of maximising solar access.

#### *Open Space*

It is noted that a "future park" with an estimated area of 8500m<sup>2</sup>, is identified on the subdivision plan to the immediate north/north west of Basin 2. The location of the park is generally in accordance with the adopted concept plan within the *TRDCP 2010* and is to provide for an integrated area of both passive and active open space. As noted in the submitted SEE, the park is proposed to be accessible via the pedestrian network with on-street car parking forming part of the design.

While this proposal does not include the construction of the park, it is considered that the provision of open space (not just drainage areas) for residents of the existing lots, and those created as part of this application, is vital for the community and a key planning consideration.

Consequently, it is recommended that the "future park" be dedicated as part of Stage 4B of the subdivision, and a Deed of Agreement be entered into between Council and the applicant prior to issue of the first Subdivision Certificate, to ensure that the park is dedicated at this stage. The applicant has agreed to the imposition of a condition in this regard. Specific design elements of the park can be assessed by Council post dedication but prior to commencement of any construction work associated with the park.

#### *Flora and fauna*

Over time as a previous farming property, the development site is largely cleared of any significant vegetation. However, concerns were raised in the submissions received by Council in relation to the potential impact in the increase in lot numbers on the environment,

particularly given that the site adjoins areas which contain endangered Box Woodland community. Further, concerns were raised that there is no link between the two separate patches of Box Woodland community and that there is no long term Plan of Management by Council for the Environmental Land.

It is acknowledged that the application relies upon the flora and fauna assessment that was submitted with the original development application and dated June 2005. However, the subject development's footprint does not alter from the current approved footprint, and does not encroach the "Environmental Land" (formally identified as Lot 833 DP 1220826) which contains remnant fragments of the Box Woodland community. Consequently, Council can be satisfied that potential flora and fauna impacts from development occurring within the same footprint have been addressed.

With regard to the on-going management of the "Environmental Land", this land is now under the care and control of Council. The land is listed within Council's Plan of Management for Community Land 2018, and while there is no specific plan of management at this time, there is opportunity for the preparation a Plan of Management incorporating the recommendations of the Flora and Fauna Study as part of Council's ongoing role in the preparation of such plans.

It is noted that the general recommendations within the flora and fauna assessment remain applicable to the development site, including the use of native species for future landscaping, retaining native and mistletoe species within the individual lots and opens paces, and remediation works of drainage lines and other landscaping works to use native grass species. While Council has the ability to adopt these recommendations when assessing trees for street planting and landscaping within public areas, it is difficult to impose such restriction on the development of future residential lots. However, although a very small number of existing native trees exist on the subject site, a condition can be imposed requiring that wherever possible, these trees be retained.

#### *Garbage Collection*

No concerns are raised with the road network and the accommodation of movement of garbage collection vehicles.

#### *Contamination*

Refer to discussion under *State Environmental Planning policy 55 Remediation of Land*.

#### *Hills Plain Development Controls*

##### *Road Controls*

The proposal includes a 5.0m widening of the western side of Moore Creek Road. No access to any allotment is proposed from Moore Creek Road. A Restriction as to User under S.88B will also be required to be placed on those Lots fronting Moore Creek Road which prohibits access to Moore Creek Road.

##### *Open Space*

While the current proposal before Council is part of a larger overall concept plan, as previously discussed, it is recommended that the "future park" identified on the proposed subdivision plan be dedicated as part of Stage 4B of the subdivision, and a deed of agreement be entered into between Council and the applicant prior to issue of the first Subdivision Certificate, to ensure that the park is dedicated at this stage. The location of this park is generally in accordance with the Hills Plain Concept Plan and S.94 (now known as S.7.11) Contributions Plan being located to the north of, and adjacent to, proposed Basin 2.

*Drainage*

As previously mentioned, a Stormwater Drainage Report has been prepared by GCA Engineering Solutions (April 2016) to address the development of the site. No concerns have been raised by Council’s Strategy and Development Division with regard to stormwater and drainage.

*Building Designs*

As previously discussed, the *TRDCP 2010* states that “no solid fences are permitted for Lots zoned R2 Low Density Residential”. The issue of fencing has been carefully considered in the assessment of the application, particularly having regard to the exemptions provided in the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Consequently, no restrictions on fencing, other than for those lots parallel to Moore Creek Road, are recommended to be imposed.

*Developer Contribution*

In accordance with Section 4.17 of the *Environmental Planning and Assessment Act 1979*, and the Tamworth Regional Council *Section 94 (Direct) Development Contributions Plan 2013*, the following monetary contributions shall be paid to Council to cater for the increased demand for community infrastructure resulting from the development:

<b>Description</b>	<b>Contribution (\$) per lot in 2018/2019</b>
Roads	7,127.00
Open Space Embellishment	504.00
Plan Preparation and Administration	260.00
<b>TOTAL</b>	<b>7,891.00</b>

Contributions are subject to indexation (CPI) if paid in future financial years.

*Water Management Act 2000 – Water & Sewer Headwork’s Charges:*

The following headworks charges are applicable:

- Water Headworks contributions are as specified in the Hills Plain Water Supply Development Servicing Plan 2006. Under the *2018/2019 Annual Operational Plan* the contribution is \$11,176 per lot; and
- Sewer Headworks contributions are as specified in the Hills Plain Sewerage System (Interim) Development Servicing Plan 2007. Under the *2018/2019 Annual Operational Plan* the contribution is \$4,349 per lot.

***s.4.15(1)(a)(iia) Provisions of any Planning Agreement***

A Planning Agreement has been entered into and a Satisfactory Arrangements Certificate has been provided dated 29 January 2019.

***s.4.15(1)(a)(iv) Any matters prescribed by the Regulations***

No matters prescribed require consideration for this proposal.

***s.4.15(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

A number of concerns have been raised in submissions received by Council which relate to the potential negative impact of the proposed subdivision on the semi-rural character of the existing stages within the Moore Creek Gardens Estate and the wider Hills Plains locality. These concerns relate largely to the increased number of allotments as a result of smaller lot sizes, and the subsequent increase in population, dwellings and traffic movements, as well as street lighting. Potential for increased noise as a result of increased traffic movements has also been raised as a concern.

It is acknowledged that the subject proposal results in an increased number of allotments to that approved under DA0037/2006 (161 as opposed to 96). It is also acknowledged that this increase in lot numbers has the potential to result in increased traffic movements, population, dwellings and traffic movements (and associated noise), as well as street lighting.

While the minimum lot size has changed (as a result of a Planning Proposal endorsed at the Ordinary Meeting of Council on 25 October 2016, and subsequently notified on the NSW Legislation website on 2 December 2016, as Amendment No. 10 to the TRLEP), the zoning of land continues to be a type of “Residential” zone as opposed to a “Rural” zone. Consequently, the proposal is considered to be in context with a residential locality and satisfies the objectives of the zone, specifically:

- *To provide for the housing needs of the community within a low density residential environment.*

Despite the “residential” zoning and the increase in the number of allotments, it is considered that the minimum lot size of 1000m<sup>2</sup> enables measures to be implemented (for example, the establishment of landscaping, increased setback of buildings) which will assist in maintaining the existing character of the area.

### Heritage

An Archaeological Survey was undertaken over the broader Moore Creek Masterplan area, including the subject site, by Patrick Gaynor in March 2005, in conjunction with the previous DA0037/2006.

The purpose of the survey was to identify whether Aboriginal objects are present, or likely to be present, in the project area. This is referred to as an Aboriginal Due Diligence Assessment under the current legislation.

A plan has been submitted by the applicant identifying the location of objects identified by the survey in relation to the subject development site. All objects/sites are located outside of the subdivision footprint and within the proposed residue lot.

The report concludes, in liaison with the Tamworth Local Aboriginal Council, that none of the stone artefacts identified by the survey report are in situ and that they have lost their integrity. It was recommended that all stone artefacts be salvaged and recorded.

Under current legislation an Aboriginal Heritage Impact Permit (AHIP) is required to be obtained for community surface collection, supported by an Aboriginal Cultural Heritage Assessment Report (ACHAR), prior to any ground disturbance in the location of the identified sites.

As there are no identified Aboriginal objects in the subdivision footprint an AHIP is not required for the development of the subject land.

It is understood that a new Development Application will be lodged over the adjoining land to the north to reduce the lot sizes in accordance with the *TRLEP 2010*, and maintain

consistency with the current DA. An AHIP will be sought prior to the commencement of any works associated with the future subdivision application (current Development Consent 37/2006 as amended 2016/0060), or any ground disturbance on Lot 65 in the location of IP/5.

All works on site shall be required to be undertaken in accordance with the requirements of the *Code of Practice for the Investigation of Aboriginal Objects in NSW (OEH)*. These requirements ensure that should unrecorded Aboriginal object/s be identified in the Project Area during works, or in the unlikely event that skeletal remains are identified, then all works in the immediate area must cease and the area should be cordoned off. The relevant parties (OEH/NSW Police) must be notified so that the site can be adequately assessed and managed. A condition can be imposed in this regard.

#### Bushfire

The subject site is not identified as being bushfire prone on Council's Bushfire Prone Land Plan.

However, it is noted that an Asset Protection Zone (APZ) of 20 metres is to be provided on Proposed Lots 608 and 609 which adjoin the Environmental Land to enable compliance with the *Rural Fires Act 1997*, as well as address the recommendations of the Flora and Fauna Assessment.

#### Safety, Security and Crime Prevention

The SEE indicates that the proposed subdivision has been designed with regards to the principles of *Crime Prevention through Environmental Design (CPTED)* to maximise safety and security. The road and pedestrian network provides a clearly defined path of travel with clear sightlines between public and private places. It is proposed that lighting of the public streets will be provided and will comply with relevant Australian Standards.

A condition is also recommended to be imposed regarding landscaping treatment and street lighting in the proposed pedestrian link to address potential safety concerns.

#### Social Impact

The subdivision is located within a new Urban Release Area and is consistent with Council's adopted DCP. The construction of the subdivision, and the construction of future dwellings located within the estate, has the potential to support the local economy through the provision of jobs. The subdivision may provide additional housing opportunities for the local region.

Concerns were raised in the submissions received by Council in relation to the smaller lot sizes and the likelihood of dwellings on these lots being rental accommodation and thus having a negative social impact on the locality. Further, concerns were raised that the reduction in lot sizes and resulting increases in population, traffic, noise and loss of rural character will result in the devaluation of existing properties. Council is not in a position to determine the number of future dwellings likely to be used for rental accommodation, nor the impact that the proposal will have on the value of land.

Concerns were also raised in submissions regarding the lack of doctors to accommodate the increase in population arising from the increased number of lots. The Hills Plains Master Plan includes the provision of an urban precinct which has the potential to accommodate future medical services. While the supply of such services is beyond the scope of this assessment, it is acknowledged that a growing population has the potential to attract the need for increased services such as medical and health care services.

**s.4.15(1)(c) The Suitability of Site for the Development**

When considering whether the site is suitable for the proposed development, the following points are noted:

- the proposal is permissible with consent within the R2 Low Density Residential zone under the provisions of *TRLEP 2010*;
- the proposal satisfies the requirements of *TRLEP 2010* and *TRDCP 2010*;
- the subdivision can be located and designed so as to minimise and manage any environmental impacts;
- the development will contribute towards meeting the demands for housing in the local region;
- the land is not subject to flooding, bushfire, or any environmental hazards and is suitable for its intended purpose for development;
- the lots are capable of being serviced with reticulated water and sewerage, electricity supply, and waste collection services in conjunction with future development upon the land; and
- the development of the land is consistent with Council's long term planning strategies for the locality.

**s.4.15(1)(d) Any Submissions Made in Accordance with the Act or Regulations**

The application was advertised and notified in accordance with the *Tamworth Regional Development Control Plan 2010* and eight submissions were received. A copy of these submissions is **ENCLOSED**, refer **CONFIDENTIAL ENCLOSURE 1**. Issues raised in the submissions have been addressed in the relevant sections of the report, with a summary of the issues raised provided below:

- *proposal will have a negative impact on the existing semi-rural character of the area;*
- *the subdivision does not blend in with the surrounds and the other stages of Moore Creek Gardens Estate and the adjoining Windmill Downs;*
- *there is a lack of green spaces;*
- *there is a lack of cycleways, trails;*
- *feel that the requirement for "rural fencing" is now unnecessary and should be able to install any type of fencing;*
- *the established Forest Hills and Moore Creek Gardens show-case what can be achieved by a successful partnership between developer, local government and the community;*
- *lack of innovative planning and proper investment in this proposal to assist in maintaining the semi-rural character of the area;*
- *suggest targeted investment in vegetation to key areas to disguise the higher density design;*
- *object to the proposed roads and access off Browns Lane including access through Jubata Drive and Bluebell way. With the volume of blocks proposed and a 300 acre site*

*to be subdivided, it is believed necessary for Council to insist that there is an access through road off Moore Creek Road around the location of Lot 406 or thereabouts;*

- *concern that the Jubata Drive, Glenmore Drive and Bluebell Way will become congested with traffic when existing landholders purchased lots on these roads believing that these would be quiet streets;*
- *concern that this congestion will be exacerbated by two access points (off Browns Lane);*
- *concern that the design does not provide a proportional increase in recreational and green areas which will have the effect of causing more traffic as people will need to travel by car to access these facilities;*
- *concerns that increased traffic movements will have a safety impact in an area which is typically attracting families with children;*
- *concerns that street lighting will cause significant light pollution to adjoining large residential and rural acreage lots which is out of character for this locality;*
- *concern that increased traffic movements will result in increased noise impacts;*
- *concern that smaller lots will now be more likely to be rented out and that this will have a social impact on the locality;*
- *concern that proposal will result in devaluation of existing properties;*
- *the impact of the change in lot numbers on the environment has not been addressed since the initial application assessment, particularly given that the area contains endangered grassy whitebox woodland community;*
- *acknowledge that here is land dedicated to Council in Stage 8C but concern that there is no corridor to link these areas or a plan on the longer term management by Council;*
- *lack of services, such as doctors, and utilities, such as water supply, to accommodate the increase in lot numbers;*
- *non-compliance with TRLEP and TRDCP 2010 and Hills Plain MasterPlan;*
- *the smaller lot sizes do not meet the objective of the DCP to “ensure that the development of the subject land does not adversely impact on the existing rural and scenic character of the locality”;*
- *impact on the existing semi-rural character of the area and is not consistent with the original Hills Plain Master Plan;*
- *the recent rezoning within the Hills Plain proceeded with inadequate community consultation and is a deviation from the partnership between developer, local government and the community, as well as the Original Hills Plain Master Plan;*
- *why does this section of Moore Creek Gardens Estate need to be rezoned to a smaller size where there is still hundreds of acres that were originally zoned for higher density development that has not been developed. This includes land to the south of Browns Lane on both sides of Moore Creek Road, including the Meadows;*
- *the utilisation of land north of Browns Lane for high density development should not be considered until all the land that was originally designated higher density under the Hills Plain LEP have reached full capacity;*

- *concern regarding the lack of community consultation for the Planning Proposal process;*
- *request that the potential impacts of the development on traffic, safety and light pollution be independently re-assessed before any further development takes place;*
- *the recent rezoning within the Hills Plain proceeded with inadequate community consultation and is a deviation from the partnership between developer, local government and the community, as well as the Original Hills Plain Master Plan;*
- *suggest that beautification (landscaping) of the current and proposed basin areas will assist in minimising traffic noise;*
- *Council to insist that there is an access through road off Moore Creek Road around the location of Lot 406 or thereabouts;*
- *suggest a targeted investment in vegetation to key areas to disguise the higher density design;*
- *why does this section of Moore Creek Gardens Estate need to be rezoned to a smaller size where there is still hundreds of acres that were originally zoned for higher density development that has not been developed. This includes land to the south of Browns Lane on both sides of Moore Creek Road, including the Meadows; and*
- *the utilisation of land north of Browns Lane for high density development should not be considered until all the land that was originally designated higher density under the Hills Plain LEP have reached full capacity.*

**s.4.15(1)(e) The Public Interest**

As previously discussed, the subject site is located within the Hills Plains area, identified within the *Tamworth Regional Development Strategy 2008*, to accommodate future residential and rural residential development. This in turn is considered to be consistent with the key principle of the *New England North West Regional Plan 2036*, which aims to guide the locations for new housing and provide a diversity of housing choice, and coordinate land uses with infrastructure and services investment development and investment.

It is acknowledged that there has been some community concern in relation to the proposed development. However, given that the subject proposal is generally compliant with the relevant legislation and planning controls, it is considered that the positive determination of the proposal is in the wider public interest.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Nil

**(c) Legal Implications**

Nil

**(d) Community Consultation**

The development application was placed on public exhibition from 12- 26 March 2018.

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

A Region of Progressive Leadership – L11 Provide quality customer service.

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

Eight submissions were received by Council during the public exhibition period and one representation from Barnaby Joyce MP after the closure of the exhibition period.

**CONCLUSION:**

This report provides an assessment of the development with regard to all relevant matters listed under 4.15 of the *Environmental Planning and Assessment Act 1979*, and issues raised in the public submission/s.

The proposed development is consistent with the relevant legislation and planning controls, as well as growth strategies for the locality and the Tamworth Region. The proposed re-design of an already approved subdivision is considered to adequately respond to the existing development, as well as the site constraints. It is considered that the proposed subdivision will not have a detrimental impact on the built or natural environments, or the social or economic fabric of the locality. As a consequence, it is recommended that the application be determined by the granting of consent, subject to the recommended conditions.

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**7.2 DEVELOPMENT APPLICATION NO. DA2019-0083 FOR DEMOLITION OF EXISTING DWELLING AND SHED AND CONSTRUCTION OF A CHILD CARE CENTRE INCLUDING ASSOCIATED PARKING, LANDSCAPING AND SIGNAGE ON LOT 4 DP 781242, 2 EAST STREET, TAMWORTH – FILE NO DA2019-0083**

**DIRECTORATE: PLANNING AND COMPLIANCE**

**AUTHOR: Mitchell Gillogly, Development Assessment Planner**

**2 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**

8

### **RECOMMENDATION**

*That in relation to Development Application No. DA2019-0083 for Demolition of Existing Dwelling and Shed and Construction of a Child Care Centre Including Associated Parking, Landscaping and Signage on Lot 4 DP 781242, 2 East Street, Tamworth:*

- i) A contribution pursuant to the Tamworth Regional Council Section 94A (Indirect) Contributions Plan 2013 is levied, rather than a contribution toward car parking pursuant to the Tamworth Regional Council Section 94 (Direct) Contributions Plan 2013 on the basis that that the proposal will not lead to an unreasonable demand of on-street parking and other public car parking in the vicinity; and*
- ii) Consent be granted subject to the following conditions:*

#### **Prior to Work Commencing**

- 1) 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 Certifying Authority for the building work; and*
    - ii) notified the Principal Certifying Authority that the person will carry out the building work as an owner-builder, if that is the case;*
  - c) the Principal Certifying Authority 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 Certifying Authority of any such appointment;*
  - iii) *unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work; and*
  - iv) *given at least two days notice to Council of the person's intention to commence the erection of the building.*
- 2) *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 Council.*
- The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.*
- 3) *The Applicant must ensure that a sign containing the following information is erected in a prominent position and maintained on the site at all times:*
- a) *the name, address and telephone number of the Principal Certifying Authority for the work; 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.*
- 4) *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.*
- 5) *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.*
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- 6) **Traffic Control Plans (TCP) are to be prepared by a person with the applicable certification from Roads and Maritime Services (RMS) in accordance with AS1742.3-1996 and the RMS current version of the "Traffic Control at Worksites" manual. All TCP are to be implemented prior to the commencement of any works undertaken within the road reserve.**
- 7) **An approval pursuant to section 138 of the Roads Act 1993, must be obtained from Council to carry out works within the road reserve prior to works commencing.**
- 8) **Pursuant to section 68 of the Local Government Act 1993, the following approvals must be obtained from Council prior to works commencing:**
  - a) **carry out water supply work;**
  - b) **carry out sewer work;**
  - c) **carry out stormwater work; and**
  - d) **dispose of waste into the sewer of the Council (trade waste).**

**Prior to the release of a Construction Certificate**

- 10) a) **In accordance with Section 80A(1) of the Environmental Planning and Assessment Act 1979 and the Tamworth Regional Council Section 94A Development Contributions Plan 2013, \$14,810.00 shall be paid to Council to cater for the increased demand for community infrastructure resulting from the development;**
- b) **If the contributions are not paid within the financial year that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Development Contributions Plan and the amount payable will be calculated on the basis of the contribution rates applicable at the time of payment in the following manner:**

$$\$C_{PY} = \frac{\$C_{DC} \times CPI_{PY}}{CPI_{DC}}$$

**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.**

- c) **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 Certifying Authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.**

**The Tamworth Regional Council Section 94A Development Contributions Plan may**

be viewed at [www.tamworth.nsw.gov.au](http://www.tamworth.nsw.gov.au) or a copy may be inspected at Council's Administration Centre during normal business hours.

- 9) **A Compliance Certificate under the Water Management Act 2000 must be obtained from Council (as the Local Water Supply Authority). The following payments must be made prior to the issue of any Construction Certificate.**
- a) **Water Headworks Charges: \$13,414**
  - b) **Sewer Headworks Charges: \$9,980**

**Note: The above headworks contributions have been adopted under the 2018/2019 Council Annual Operational Plan. Revised rates adopted in subsequent Annual Operational Plans will apply to Headworks Contributions paid in later financial years.**

- 10) **Retaining walls greater than 600mm above finished ground level or other approved methods necessary to prevent movement of excavated or filled ground, together with associated stormwater drainage measures, shall be designed by a qualified, practising Structural Engineer. Details are to be included with any Construction Certificate application.**
- 11) **An asbestos clearance certificate must be supplied to the General Manager of Tamworth Regional Council or his 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 Construction Certificate.**
- 12) **The application must be made to the Local Traffic Committee to change the parking arrangements in East Street in front of the development site, prior to issue of any Construction Certificate**
- 13) **A stormwater servicing strategy for the development site shall be prepared and submitted to Council for approval in accordance with the requirements of Part 3 of Council's current version of the Engineering Design Guidelines for Subdivisions and Developments.**

**The stormwater servicing strategy for this development must also include calculations and associated commentary for the following at a minimum:**

- a) **Minor stormwater network; and**
- b) **Q100 overland flow paths;**

**The stormwater servicing strategy to be approved by the General Manager of Tamworth Regional Council or his delegate and will be used to address the required stormwater drainage design for the development site.**

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

- d) *Traffic and Parking Management Plan;*
- e) *Security & Safety Plan; and*
- f) *Any requirements of the Education and Care Services National Regulations.*

**General**

- 15) *Development shall take place in accordance with the attached endorsed plans:
  - a) *Architectural Plans prepared by D&C Projects, Project No. 17160, WD01, 2, 4 - 8, Revision 10, dated 29 January 2019.**
- 16) *The development must be carried out in accordance with the Development Application and accompanying plans, drawings and other documents as amended by conditions of this consent. Any amendment to the development or to these conditions will require the consent of Council.*
- 17) *To confirm and clarify Council's terms of approval, this consent provides for the operation of a child care centre, as defined by the Tamworth Regional Local Environmental Plan 2010, with a maximum 70 children.*
- 18) *All proposed building, site works or property improvement indicated on the submitted plans or otherwise required under the terms of this consent shall be completed prior to the issue of any Occupation Certificate for the premises to ensure compliance with the provisions of the Environmental Planning and Assessment Act 1979.*
- 19) *The development must comply with the Education and Care Services National Regulations.*
- 20) *The gates to the site shall be open at all times during operating hours.*
- 21) *The Tamworth Regional Council Local Government Area has water conservation measures in place due to ongoing drought conditions. These water conservation measures will impact the establishment of landscaping in this development.*
- 22) *All building work must be carried out in accordance with the provisions of the National Construction Code (NCC).*
- 23) *All building work must be carried out in accordance with the provisions of the disability (Access to Premises - Buildings) Standards 2010.*
- 24) *All outdoor lighting shall be designed to comply with, where relevant, AS/NZ1158 and AS4282.*
- 25) *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).**
- 26) *Any existing State Survey Mark or Cadastral Survey Mark shall be preserved during construction and not disturbed unless authority has been obtained from*

*the Surveyor-General in accordance with the Surveyor-General's Directions published by the NSW Land and Property Information Service. In this regard, the Principal Contractor is responsible for the protection of the mark.*

#### **During Construction or Works**

##### **General**

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

*Monday to Friday – 7:00am to 5:00pm;*

*Saturday – 8:00am to 1:00pm if audible on other residential premises, otherwise 7:00am to 5:00pm;*

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

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

- 28) *A copy of the approved and certified plans, specifications and documents incorporating conditions of approval shall be kept on the site at all times and shall be readily available for perusal.*
- 29) *The footpath and/or road reserve are not to be used for construction purposes or placing of building materials (without Council's prior consent) to ensure safe and unobstructed access for pedestrians. Where necessary, application may be made by contacting Council's Development and Approvals Division.*
- 30) *Any damage caused to kerb, guttering and/or footpath during building operations shall be rectified by the owner or the builder to the satisfaction of Council to ensure the integrity of Council's road infrastructure is maintained in an acceptable standard.*
- 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) *The Developer shall ensure that dust suppression is undertaken to ensure there is no visible dust emitted due to any works associated 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.*
- 33) *A site rubbish enclosure shall be provided on the site for the period of the proposed construction works.*

##### **Access & Parking**

- 34) *The vehicle crossovers are to be constructed with a base course of adequate depth to accommodate the anticipated vehicle loadings over its design life.*
- 35) *Vehicle crossover(s) in East Street shall be constructed in accordance with Council's Engineering Design Guidelines for Subdivisions and Developments and shall comply with the following:*
- a) *the alignment of the vehicle crossover across the verge shall be at right*

*angles to East Street;*

- b) the vehicle crossover shall have satisfactory clearance to any power pole or telecommunications pole, manhole cover or marker, or street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the relevant Authority and shall be at the Developer's expense;*
- c) the vehicle crossover shall be of adequate thickness to accommodate light truck loading;*
- d) the vehicle crossover shall be provided with a non-slip finish; and*
- e) the verge adjacent to either side of the vehicle crossover shall be established with turf and finished flush with the new vehicle crossover.*

*Note: The installation of the vehicle crossing is an approved structure in accordance with Section 138 of the Roads Act 1993. The ongoing maintenance and/or repair of the vehicle crossing is the responsibility of the adjoining owner in accordance with Section 142 of the Roads Act 1993.*

- 36) All parking and loading bays shall be permanently marked out on the pavement surface with loading bays and visitor parking facilities being clearly indicated by means of appropriate signs to facilitate the orderly and efficient use of on-site parking and loading/unloading facilities in accordance with Australian Standard 2890.*
- 37) On-site parking accommodation shall be provided for a minimum of 11 vehicles, to ensure the provision of adequate on-site parking facilities commensurate with the demand likely to be generated by the proposed development. Such being set out generally in accordance with the details indicated on the submitted plans, except as otherwise by the conditions of this consent.*

#### *Demolition*

- 38) To ensure the safety, all demolition work shall be carried out in accordance with Workcover Authority requirements and Australian Standard 2601 - The Demolition of Structures.*

#### *Asbestos*

- 39) All demolition and removal of asbestos and asbestos containing material (ACM) must be done in accordance with the Work Health and Safety Act 2011.*
- 40) The Applicant is to notify all residents either side of and immediately behind the demolition site five days prior to the demolition. Such notification is to be hand delivered and clearly written and dated, stating the date that demolition will commence.*
- 41) 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 site. The sign must be erected prior to demolition work commencing and must remain in place until all ACM is removed from the site.*
- 42) All asbestos laden waste must be disposed of at a landfill licensed by the NSW Environment Protection Authority. All tipping receipts from the landfill must be retained as evidence of proper waste disposal.*

### **Allotment Filling**

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

*Certification of the allotment filling shall be provided by a geotechnical testing authority registered under NATA. The testing authority shall be required to certify whether the fill complies with the requirements of AS2870.1 (as amended) – Residential Slabs and Footings – Construction, as “controlled fill”.*

### **Stormwater**

- 44) *All hardstand runoff discharging from the proposed development site, buildings and works must be conveyed to the approved point of discharge by underground pipe drains complying with AS3500.3 (as amended) to the satisfaction of Council. No effluent or polluted water of any type may be allowed to enter the Council’s stormwater drainage system.*
- 45) *Additionally, the stormwater drainage system must be constructed to comply with the following requirements as a minimum:*
- 46) *All plumbing within the site must be carried out in accordance with relevant provisions of Australian Standard AS/NZS 3500.3 (as amended) Plumbing and Drainage – Stormwater Drainage;*
- 47) *Temporary down pipes shall be connected as soon as the roof has been covered so as to not cause a nuisance to adjoining properties:*
- c) *all overland surface flow paths must have a practical and satisfactory destination with due consideration to erosion and sediment control during all stages of development. A system to prevent overland flows discharging onto adjoining properties shall be implemented;*
  - d) *any interruption to the natural overland flow of stormwater drainage which could result in the disruption of amenity, or drainage or deterioration to any other property is not permitted; and*
  - e) *only a single point of discharge is permitted to the approved point of discharge.*
- 48) *The approved point of discharge for the development site is defined as the kerb and gutter located on the northern side of East Street fronting the development site.*

### **Inspections**

- 49) *It is required that a Principal Certifying Authority (PCA) be appointed to undertake all critical stage inspections as prescribed under the Environmental Planning and Assessment Regulations 2000. The owner may appoint either Council or an accredited certifier to be the PCA.*

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### **Prior to Occupation**

- 50) *The occupation or use of the whole or any part of a new building must not commence unless an occupation certificate has been issued in relation to the building or part.*
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**Prior to the release of an Occupation Certificate**

51) *Upon approval of angled parking in East Street by the Local Traffic Committee, the restrictions shall be sign posted and line marked in accordance with AS2890.5 prior to issue of any Occupation Certificate. All cost associated with these works shall be borne by the Developer.*

52) *In lieu of completing the landscaping nominated on the approved plan, a cash bond or bank guarantee to the value of the landscaping works must be paid to Tamworth Regional Council prior to the issue of an Occupation Certificate. The cash bond or bank guarantee will be returned when the water conservation measures allow the landscaping to be completed.*

53) *Sediment and erosion control measures for the site shall be established as the landscaping is unable to be completed in accordance with the approved plan. The sediment and erosion control measures must be installed prior to the issue of an Occupation Certificate and shall remain in place until such time as water conservation measures allow the landscaping to be completed.*

*Sediment erosion controls can include hay bales, sand bags and sediment fences and should be appropriate to be able to manage runoff created onsite.*

*All erosion and sediment controls should be checked at least once each week and after each rainfall event to ensure they are working properly.*

*Maintenance should include:*

- a) Removing sediment trapped in sediment fences, catch drains or other areas;*
- b) Repairing any erosion of drainage channels; and*
- c) Repairing damage to sediment fences.*

54) *Approval shall be obtained from the Local Traffic Committee to change the parking arrangements in East Street in front of the development site, prior to issue of any Occupation Certificate.*

55) *A Compliance Certificate under the Water Management Act 2000, must be obtained from Council (as the Local Water Supply Authority). The following works are to be completed prior to the issue of an Occupation Certificate:*

*Water*

*If the existing water service requires upsizing then the existing service is to be removed and disconnected from the water main.*

56) *Works undertaken to install the new water service are to be conducted in accordance to Council's Engineering Design Guidelines for Subdivisions and Developments;*

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

*Sewer*

58) *The existing sewer junction to the lot shall be utilised to service the development.*

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

60) *For developments where allotment filling has been undertaken, a copy of the*

**NATA testing authority certification for compliance to the requirements of AS2870.1 (as amended) – Residential Slabs and Footings – Construction shall be provided to Council.**

**Ongoing Requirements**

- 61) **The approved hours of operation are:**
  - **Monday to Friday - 7:00am – 6:00pm**
- 62) **Noise from air conditioner units must not exceed 5 dBA (when measured as an LAeq (15 min)) above background (when measured as a LA90 (15min)) when in operation between 7.00am to 8.00pm Monday to Saturday and 8.00am to 8.00pm on Sundays and public holidays. Outside of these times the noise emitted from the air conditioning unit must be inaudible in any habitable room of any other residence.**
- 63) **All signage shall be maintained in good structural condition, kept clean, neatly painted and to be of professional standard of design and appearance.**
- 64) **Any additional signage (other than business identification signs approved as part of this consent) is subject to a separate development application.**
- 65) **The sealing of vehicle crossovers is to be maintained at all times.**
- 66) **The operation must comply with the Australia New Zealand Food Standards Code and the Food Act 2003.**
- 67) **The child care centre shall comply with the Education and Care Services National Regulations.**

**Advisory Notes**

**Note 1: If Council receives verified noise complaints during the operation of the childcare centre, a noise assessment will need to be undertaken. This noise assessment will need to address, amongst other things, sleep disturbance impacts on surrounding residential receivers.**

**APPLICATION DETAILS:**

Application No.	2019-0083
Application For:	Demolition of existing dwelling and shed and construction of a child care centre including associated parking, landscaping and signage
Date Received:	15 August 2018
Applicant:	Mr TO Spokes
Owner:	Mr TO Spokes
Land/Address:	Lot 4 DP 781242, 2 East Street, Tamworth
Zoning:	B4 Mixed Use - <i>Tamworth Regional Local Environmental Plan 2010</i>



## **DEVELOPMENT ASSESSMENT SUMMARY**

The key issues that relate to this application are: onsite parking for which the Applicant seeks a variation to the *Tamworth Regional Development Control Plan 2010* for a shortfall of three spaces; and the bulk and scale of the building, being a two storey development in an area characterised by single storey heights.

## **DESCRIPTION OF PROPOSAL:**

The Applicant seeks development consent for demolition of an existing dwelling and shed and construction of a child care centre. It is proposed that the child care centre will provide long day care for up to 70 children. The centre will also employ up to six staff.

The ground floor will include 11 onsite parking spaces, reception/foyer, staff meeting room, manager's office, amenities and outdoor play area. The first floor will include a preschool room, junior preschool room, toddler's room, cot room, amenities and covered outdoor area. An internal lift will provide access to the ground and first floors as well as internal stairs.

A freestanding business identification sign measuring 4.0m x 0.9m is proposed to be located at the front of the property. The proposed hours of operation are 7:00am – 6:00pm from Monday to Friday.

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

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

The property is Lot 4 DP 781242, 2 East Street, Tamworth. The site is 1005m<sup>2</sup> in area. The lot is occupied by a single storey weatherboard dwelling and detached shed, both of which are proposed to be demolished as part of this application.

The surrounding area contains a variety of land uses including offices, a caravan park, vehicle sales and showroom, medical rooms, residential development and an electrical substation.

The natural topography includes a gentle slope from the north-east to the south-west.

A locality plan is **ATTACHED** to this report as **ANNEXURE 2**.

## **ASSESSMENT REPORT:**

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

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

#### **State Environmental Planning Policies**

##### State Environmental Planning Policy No. 55 – Remediation of Land (SEPPP 55):

Pursuant to *SEPP 55*, Council is required to consider the potential for contamination and whether or not the land is suitable for the proposed use.

In this instance, the site does not have a history of being occupied by potentially contaminating activities and no obvious signs of potential contamination have been observed onsite. Therefore, no further consideration is required pursuant to *SEPP 55*.

However, the Applicant has indicated in the submitted documentation that the existing dwelling contains asbestos wall panels. An asbestos clearance certificate will need to be obtained upon completion of the demolition and supplied to Council. The certificate must be

issued by an independent licensed asbestos assessor to confirm that the site is free of all asbestos. It is recommended that a condition be imposed to require that the clearance certificate be obtained and submitted prior to the issue of any Construction Certificate.

Conditions of consent are also recommended with respect to the handling and disposal of asbestos material.

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

A freestanding business identification sign measuring 4m x 0.9m is proposed to be installed at the front of the property facing East Street. The business identification sign includes the wordmark “East Street Child Care”.

The sign is considered appropriate having regard to the matters for consideration contained in Schedule 1 of SEPP 64. The sign is proposed to be non-illuminated.

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP):

The proposal is required to satisfy clauses 22(1)(a) and (b) of the *Education SEPP* and the requirements of the Child Care Planning Guidelines (The Guidelines).

Clauses 22(1)(a) and (b) of the *Education SEPP* refers to the Education and Care Services National Regulations, and specifies an unencumbered indoor space of 3.25m<sup>2</sup> per child and unencumbered outdoor space of 7m<sup>2</sup> per child.

The proposal satisfies the *Education SEPP* by providing 3.6m<sup>2</sup> of indoor space and 7.3m<sup>2</sup> of outdoor space per child.

The Guidelines aim to promote a high level of design which maximises the safety and health of young children whilst delivering attractive buildings that are sympathetic to the streetscape and setting. The *Education SEPP* requires the consent authority to consider Parts 2, 3 and 4 of the Guidelines when assessing a child care centre.

*Part 2 - Design Quality Principles*

Principle Number	Principles	Commentary
1. Good Design	<p><i>Good design responds and contributes to its context, including the key natural and built features of an area, their relationship and the character they create when combined.</i></p> <p><i>It also includes social, economic, health and environmental conditions.</i></p> <p><i>Well-designed child care facilities respond to and enhance the qualities and identity of the area including adjacent sites, streetscapes and neighbourhood.</i></p> <p><i>Well-designed child care facilities take advantage of its</i></p>	<p>The development responds to the streetscape through the use of varying materials and articulation on elevation facing East Street. The 4.8m setback from the front boundary, which includes landscaping, creates a clear and visual transition.</p> <p>The proposed development is on the periphery of the Tamworth Central Business District, making it easily accessible for those who work in to the CBD as well as those who live in nearby residential areas. It also provides easy access to public transport.</p>

	<p><i>context by optimising nearby transport, public facilities and centres, respecting local heritage, and being responsive to the demographic, cultural and socio-economic makeup of the facility users and surrounding communities.</i></p>	
<p>2. Built Form</p>	<p><i>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the surrounding area.</i></p> <p><i>Good design achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Good design also uses a variety of materials, colours and textures.</i></p> <p><i>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</i></p> <p><i>Contemporary facility design can be distinctive and unique to support innovative approaches to teaching and learning, while still achieving a visual appearance that is aesthetically pleasing, complements the surrounding areas, and contributes positively to the public realm.</i></p>	<p>The proposed development will be visually different to the surrounding area which is predominantly single storey.</p> <p>The design includes exterior face brickwork, lightweight cladding and expressed structural concrete piers with openings included along the elevations to break up the building mass. The development includes cut and fill of the site in order to reduce the height and bulk of the building.</p> <p>East Street is an area which is slowly transitioning from a residential scale to commercial. As such, it is accepted that the proposed development represents the likely future character of the area.</p>
<p>3. Adaptive Learning Spaces</p>	<p><i>Good facility design delivers high quality learning spaces and achieves a high level of amenity for children and staff, resulting in buildings and associated infrastructure that are fit-for-purpose, enjoyable and easy to use. This is achieved through site layout, building design, and</i></p>	<p>The proposed development includes a range of indoor and outdoor spaces for children.</p>

	<p><i>learning spaces fit-out.</i></p> <p><i>Good design achieves a mix of inclusive learning spaces to cater for all students and different modes of learning. This includes appropriately designed physical spaces offering a variety of settings, technology and opportunities for interaction.</i></p>	
4. Sustainability	<p><i>Sustainable design combines positive environmental, social and economic outcomes.</i></p> <p><i>This includes use of natural cross ventilation, sunlight and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and re-use of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</i></p> <p><i>Well-designed facilities are durable and embed resource efficiency into building and site design, resulting in less energy and water consumption, less generation of waste and air emissions and reduced operational costs.</i></p>	<p>The development will need to comply with Section J of the National Construction Code which sets the energy targets for the proposal.</p>

*Part 3 - Matters for Consideration*

<b>Matters for Consideration</b>	<b>Objectives</b>	<b>Comment</b>
3.1 Site Selection & Location	<i>To ensure that appropriate zone considerations are assessed when selecting a site.</i>	The site is located within a mixed use zone and as a consequence the surrounding area contains a variety of land uses including offices, a caravan park, vehicle sales showroom, medical rooms, residential development and electrical substation. A childcare centre is compatible with these uses.
	<i>To ensure that the site selected for a proposed child care facility is suitable for the use.</i>	

	<p><i>To ensure that sites for child care facilities are appropriately located.</i></p>	<p>The site is located on the eastern fringe of the Tamworth Central Business District which means the proposed child care centre is easily accessible and will cater for a wide range of families.</p>
	<p><i>To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazards.</i></p>	<p>The site selected will not expose the child care facility to risks from environmental, health or safety hazards.</p>
<p>3.2 Local Character Streetscape &amp; the Public Domain Interface</p>	<p><i>To ensure that the child care facility is compatible with the local character and surrounding streetscape.</i></p>	<p>The proposal contributes to the streetscape through the use of varying materials and articulation on the elevation facing East Street. The 4.8m setback from the front boundary, which includes landscaping, creates a clear and visual transition between the public and private domain.</p> <p>The predominant building form of the adjoining properties is single storey. The exception is Tamworth Toyota which is the equivalent height of two storeys.</p> <p>Although the proposed bulk and scale is greater than the adjoining single storey properties, the design includes a mixture of building materials and colours, which combined with the likely future character of the area, is considered to be satisfactory.</p>
	<p><i>To ensure clear delineation between the child care facility and public space.</i></p>	
	<p><i>To ensure that front fences and retaining walls respond to and complement the context and character of the area and do not dominate the public domain.</i></p>	
<p>3.3 Building Orientation, Envelope &amp; Design</p>	<p><i>To respond to the streetscape and site, while optimising solar access and opportunities for shade.</i></p>	<p>The proposed building will be constructed from concrete block with a low profile “Colorbond” roof. The façade of the building includes lightweight cladding along the East Street frontage and open style outdoor areas which include privacy louvers.</p> <p>The highest point of the roof is in the middle of the building and tapers down to the front and rear.</p>
	<p><i>To ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised.</i></p>	

	<p><i>To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context.</i></p>	<p>The <i>TRDCP 2010</i> does not specify a building height for commercial development and the development satisfies the FSR requirement nominated by the <i>TRLEP 2010</i>.</p>
	<p><i>To ensure that the built form, articulation and scale of development relates to its context and buildings are well designed to contribute to an area's character.</i></p>	<p>Loss of privacy was raised as a concern by objectors, and to address this issue internal windows are to be fixed closed and privacy lovers are proposed to be placed on the upper level play area.</p>
	<p><i>To ensure that buildings are designed to create safe environments for all users.</i></p>	<p>The submitted shadow diagrams demonstrate that the adjoining properties retain a minimum of 4 hours of sunlight to open space areas and habitable rooms on the winter solstice.</p>
	<p><i>To ensure that child care facilities are designed to be accessible by all potential users.</i></p>	<p>Access is restricted to a single point with the design allowing for passive surveillance. The development includes provisions for accessible access.</p>
<p>3.4 Landscaping</p>	<p><i>To provide landscape design that contributes to the streetscape and amenity.</i></p>	<p>The submitted landscape plan includes a mixture of low height drought tolerant species, grass and ornamental pears. The landscaping is considered appropriate. However, given the current water conservation level in place, it is unlikely that landscaping could be established. As such, it is recommended that Council accept a bond in lieu of completing the works if at the time of an Occupation Certificate, water restrictions have not eased.</p>
<p>3.5 Visual &amp; Acoustic Privacy</p>	<p><i>To protect the privacy and security of children attending the facility.</i></p>	<p>The design includes privacy shutters on the upper open space area to reduce overlooking onto neighbouring properties.</p> <p>All windows will be fixed closed to reduce noise. The main source of noise will be from the outdoor play areas. The Applicant has</p>

	<p><i>To minimise impacts on privacy of adjoining properties.</i></p>	<p>advised the use of the outdoor areas will be limited throughout the day so as not to result in a constant source of noise on adjoining properties. It is also proposed that an acoustic fence will be constructed along the property boundaries in order to reduce noise emission on properties. It is recommended that a condition be imposed to require a Childcare Plan of Management to be prepared and submitted prior to issue of a Construction Certificate, which will include a noise management component to address the potential for noise impact on adjoining neighbours.</p> <p>All plant and air conditioning units are located within the ground level carpark and are suitably screened from adjoining properties.</p>
	<p><i>To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments.</i></p>	
<p>3.6 Noise &amp; Air Pollution</p>	<p><i>To ensure that outside noise levels on the facility are minimised to acceptable levels.</i></p>	<p>The proposed child care centre is not located in industrial zoned land, along a railway or mass transit corridor, major or busy road or where the ANEF contour is between 20 and 25.</p>
	<p><i>To ensure air quality is acceptable where child care facilities are proposed close to external sources of air pollution such as major roads and industrial development.</i></p>	
<p>3.7 Hours of Operation</p>	<p><i>To minimise the impact of the child care facility on the amenity of neighbouring residential developments.</i></p>	<p>The child care centre hours of operations are between 7:00am and 6:30pm, Monday to Friday.</p>

3.8 Traffic, Parking & Pedestrian Circulation	<i>To provide parking that satisfies the needs of users and demand generated by the centre.</i>	In accordance with the <i>TRDCP 2010</i> , childcare centres require parking to be provided at a rate of one space for every five children. In accordance with this rate, the centre requires 14 spaces to be provided onsite for 70 children.  The proposed development provides 11 spaces (including disabled parking spaces with adjacent shared space) which results in a net shortfall of three onsite parking spaces.
	<i>To provide vehicle access from the street in a safe environment that does not disrupt traffic flows.</i>	Three on-street parking spaces are available in front of the development, but the approval of the Local Traffic Committee is required to change the restrictions from parallel to 60 degree parking.  The design includes separate pedestrian access and vehicle entries from the street for parents, children and visitors. A disabled parking space with a shared zone has been provided. The submitted swept paths demonstrate vehicles can enter and exit in a forward direction.
	<i>To provide a safe and connected environment for pedestrians both on and around the site.</i>	The proposed development will not have a detrimental impact upon the existing road network with adequate capacity present to cater for the expected demand.

*Part 4 – Applying the National Regulations*

The National Regulations provide specific requirements for indoor and outdoor spaces, construction standards and best practice design for child care centres. The proposal has been designed in accordance with the Regulations in terms of indoor/outdoor space, laundry/toilet/nappy changing facilities, shade, fencing and administrative space. Further, the design facilitates supervision and enables a safe and secure area for staff and children. Therefore, it is considered the proposal satisfies the requirements of Part 4 of the Guidelines.

A condition of consent is recommended which requires the child care centre to comply with the Education and Care Services National Regulations.

**Local Environmental Plan**

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



The subject site is zoned B4 Mixed Use pursuant to *TRLEP 2010*. The proposal is defined as a “*child care centre*” by the Plan. This form of development is permissible with consent in the zone.

The objectives of the B4 zone are as follows:

- *to provide a mixture of compatible land uses; and*
- *to integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

The proposal is consistent with the objectives of the B4 zone being a compatible and complementary land use to other activities within the zone. Further, East Street is located in close proximity to the Central Business District and residential area of East Tamworth meaning it is easily accessible by either foot or bike and also near public transport.

#### *Clause 4.4 Floor Space Ratio*

Clause 4.4 of the *TRLEP 2010* aims to ensure that the bulk and scale of new buildings is appropriate in relation to the development pattern of surrounding uses and buildings. The Floor Space Ratio (FSR) nominated for the site is 1:1.

The proposed development has an FSR of 0.8:1. As such, the requirements of clause 4.4 have been satisfied.

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

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

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

##### *Tamworth Regional Development Control Plan 2010 (TRDCP 2010):*

The Commercial/Retail Development Controls chapter of the *TRDCP 2010* is applicable to the proposal as follows:

##### *Building Setbacks:*

The *TRDCP 2010* does not specify minimum building setbacks for commercial development. The development is proposed to be setback 4.1m from the front boundary and 13.3m from the rear boundary.

##### *Building Height:*

The *TRDCP 2010* does not specify a maximum building height for commercial development. The development is proposed to be two storey, with a height of 8.1m from the finished ground level to the top of the ridge.

It is intended to excavate approximately 600mm approximately at the rear of the proposed building to reduce the overall height.

##### *Outdoor Lighting:*

It is recommended that a condition be imposed to require that outdoor lighting comply with AS/NZS 11583.1 Pedestrian Area (Cat P) Lighting and AS4282 Control of Obtrusive Effects of Outdoor Lighting.

##### *Outdoor Signage:*

A freestanding business identification sign is proposed to be installed within the front setback facing East Street.

*Design:*

The building is proposed to be constructed from concrete block with a low profile “Colorbond” roof. The façade of the building includes lightweight cladding along the East Street frontage and open style outdoor areas which include louvers. The ground floor includes onsite parking for 11 vehicles, outdoor play area and administrative spaces with the upper level comprising three open plan childcare rooms and outdoor play area.

*Utilities/Services:*

All of Council’s services are available to the subject site. The existing water and sewer service shall be utilised for the development.

With respect to stormwater, it is recommended that a condition be imposed to require that a servicing strategy for the development is prepared and submitted to Council for approval in accordance with the requirements of Part 3 of Council’s current version of the Engineering Design Guidelines for Subdivisions and Developments.

The strategy will need to have regard to the other recommended conditions that require all hardstand runoff discharging from the proposed development site, buildings and works be conveyed to the approved point of discharge by underground pipe drains complying with AS3500.3 (as amended). The approved point of discharge is the kerb and gutter located on the northern side of East Street fronting the development site.

It is also recommended that a condition be imposed to require that the developer obtain approvals from Council pursuant to section 68 of the *Local Government Act 1993*, for water supply work, sewer supply work, stormwater work and to dispose of waste into the sewer of the Council (trade waste).

*Access:*

Vehicle and pedestrian access to the development is from East Street. A new layback will be constructed as part of the development. An approval pursuant to Section 138 of the *Roads Act 1997*, is required for this work and a condition has been recommended to require the approval be obtained prior to work commencing.

The submitted vehicle swept paths demonstrate a B99 vehicle can enter and leave the site in a forward direction.

To minimise the potential for anti social behaviour to occur in the car parking area at night, a set of security gates will be installed to enclose the space. It is recommended that a condition is imposed to require that the gates are open during business hours.

*Traffic:*

The potential traffic impacts associated with the development were assessed against the Roads and Maritimes Services Guide to Traffic Generating Development. An assessment of the likely traffic impact (child care centre) in the AM and PM peak on the adjoining road network is provided below:

Land Use	Vehicle Movements
Child Care Centre (0.8 peak hour trips per child)	56 vehicles trips per hour (28 trips TO & 28 Trips FROM)

These results indicate an additional 56 daily vehicle movements per hour between the hours of 6:30am to 9:30am and 3:30pm to 6:30pm. Based on the most recent traffic counts under taken by Council in 2014, mid block East Street operates at a Level of Service (LoS) A with the predicated traffic demands generated by the proposal not leading to a reduction in the current LoS A.

Further, the transient nature of child care facilities means traffic will be predominantly higher during the children drop off/ pick up times rather constant throughout the day. The intersection at Armidale Road and East Street, the existing roundabouts at Peel Street and Murray Street and Murray Street and Marius Street provide suitable alternatives within the road network. As such, the proposal will not have a detrimental impact upon the existing road network with adequate capacity present to cater for the expected demand.

*Parking:*

In accordance with the *TRDCP 2010*, childcare centres require parking to be provided at a rate of one space for every five children. Applying this rate, the centre requires 14 spaces to be provided onsite to cater for a maximum of 70 children. The proposed development provides 11 spaces (including disabled parking spaces with adjacent shared space) which represents a shortfall of three onsite parking spaces.

In support of the variation to the *TRDCP 2010* the Applicant has provided the following justification:

- there is limited capacity to provide additional onsite parking spaces;
- the transient nature of child care facilities means parking demand will be predominantly higher during the children drop off/ pick up times rather than a constant demand for parking throughout the day;
- the interchange between the children drop off/ pick up is usually quick and restricted to the start and end of operating hours;
- in consideration of the surrounding land uses, East Street has the capacity to cater for any overflow parking in the peak times (drop off/pick up) without resulting in an unreasonable demand on parking spaces within the surrounding area; and
- it is not anticipated the development will negatively impact on surrounding business given the higher demand for parking will be during the drop off/pick up times and not throughout the entire day.

The road frontage enables three on street parking spaces in front of the child care centre. Currently East Street only permits parallel parking, however as part of this proposal, approval from the Local Traffic Committee will be sought to change the on street parking to 60 degrees. The change to the parking arrangements is limited to this portion of East Street.

It is considered the variation to the *TRDCP 2010* should be supported in this instance given the proposal will not lead to an unreasonable demand of on-street parking and other public car parking in the vicinity.

It is noted, the subject site is located within the Tamworth Central Business District and in accordance with Council's Section 94 (Direct) Development Contributions Plan 2013, a monetary contribution may be levied toward public car parking where a non-residential development is unable to provide car parking onsite.

Landscaping:

The proposal provides a mixture of trees, shrubs and groundcovers around the perimeter of the property and within the outdoor play areas. It is considered the proposed landscaping will improve the visual appearance of the streetscape on East Street.

However, having regard to the current and likely future water conservation measures in place, it may not be possible to establish the landscaping associated with the development. As such, it is recommended that Council accept a bond or bank guarantee in lieu of completing the landscaping, with the view to complete the work when water conservation measures allow.

Tamworth Regional Section 94A (Indirect) Development Contributions Plan 2013 and Tamworth Regional Section 94 (Direct) Development Contributions Plan 2013

Changes to the *Environmental Planning and Assessment Act 1979* came into effect on 1 March 2018. Contributions towards the provision or improvement of amenities or services previously levied under s.94 are now levied under s.7.11, and fixed development consent previously levied under s.94A are now levied under s.7.12. These changes do not affect the Plans previously made.

Both section 94 plans are applicable to the proposed development, but Council may only levy a contribution pursuant to one of the plans. In this instance, it is recommended that the contribution be levied pursuant to the *Tamworth Regional Section 94A (Indirect) Contributions Plan 2013*.

This is because the request to waive the section 94 contributions for car parking is supported on the basis that the proposal will not lead to an unreasonable demand of on-street parking and other public car parking in the vicinity.

Pursuant to the *Tamworth Regional Section 94A (Indirect) Contributions Plan 2013*, an amount of \$14,810.00 will be levied, being 1% of estimated construction cost. A condition is recommended to be imposed in this regard.

It is noted that an amount of \$52,134 could have been levied pursuant to the *Tamworth Regional Section 94 (Direct) Development Contributions Plan 2013* for a shortfall of three onsite car parking spaces, had it been considered that there was a demand within the locality.

Water Management Act 2000 – Water & Sewer Headwork's Charges:

Council, as the Local Water Supply Authority may levy water and sewer headworks charges. The following payments are applicable to the proposed development.

- water headworks charges: \$13,414; and
- sewer headworks charge: \$9,980.

The above headworks contributions have been adopted under Council's Annual Operational Plan 2018/19. Revised rates adopted in subsequent Annual Operational Plans will apply to Headworks Contributions paid in later financial years. A condition has been recommended to require that payments are made prior to the issue of a Construction Certificate.

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

The development is not subject to the provisions of any Planning Agreement.

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

There are no matters prescribed by the Regulations which are applicable to the subject application.

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**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***

An assessment of the most relevant impacts of the development, identified under S4.15(1)(b), on both natural and built environments and social/economic impacts in the locality has been carried out below.

Noise

Council received several submissions during the exhibition period raising concern about the potential increase in noise as a result of the child care centre, specifically regarding additional traffic and the outdoor play areas.

Additional traffic movements and the associated noise are to be reasonably expected in a mixed zone, particularly in a location that is in a period of transition. However, it is noted that the car parking area has been partially enclosed with acoustic panelling to minimise noise nuisance arising from vehicles car parking area. This solution is considered to be acceptable to address any potential noise impacts.

The noise created by children using the play areas will be different the noises current experienced in the area. To address the potential impact from use of the ground level outdoor play areas, the Applicant proposes to construct an acoustic fence on the boundaries.

There is also an outdoor play area on the first floor which includes a mix of solid walls and privacy louvers to minimise the transmission of noise to adjoining properties.

Finally, the rear of the outdoor play area is open, with the exception of glass safety fence. As such, noise is likely to project to the rear of the property and towards adjoining neighbours. To address the potential noise impacts from the use of this space, the Applicant has advised that the use of the area will be restricted throughout the day.

The air conditioning units are also a potential source of noise impact. These have been relocated on the roof to the car parking area next to the entry gate. The air conditioning units will not be visible and are unlikely heard given their location within the confines of the building. A condition of consent is recommended regarding noise emissions from the air conditioning units.

It is also recommended that a condition be imposed that requires a Plan of Management to be developed which includes a noise management plan in order to minimise adverse effects on neighbours. Finally, it is recommended that an advisory note be included on the consent to nominate that if Council receives verified noise complaints during the operation of the child care centre, a noise assessment will need to be undertaken.

Food Safety

The proponent has advised the child care centre will not prepare or serve food onsite. All food will be brought to the child care centre by the children.

Waste

All waste receptacles will be stored in the proposed waste storage area located in the ground level car park area. It is considered the storage area provided suitable screening from adjoining properties and East Street.

### Overshadowing

The submitted shadow diagram identifies the adjoining properties to the south-west will be impacted by overshadowing. The three adjoining properties consist of two business premises and a residential dwelling.

The *TRDCP 2010*, requires that shadow diagrams demonstrate habitable rooms of adjoining dwellings and open space areas retain a minimum of four hours of sunlight between 9:00am-3:00pm on 21 June (winter solstice). Although this control has been applied for the purposes of determining any potential impacts raised by objectors, these controls do not apply to commercial zones.

The shadow diagrams show that the rear of the buildings and backyards will be in full shade at 9:00am, given the orientation and height of the child care centre. However, by 12:00pm all adjoining buildings and backyards will receive direct sunlight with no overshadowing by 3:00pm.

It is noted that at 12:00pm the areas in shade largely consist of the adjoining properties sheds and hardstand areas with a large tree in the backyard of the dwelling also providing existing shade.

It is accepted the proposed development does substantially increase overshadowing on the adjoining properties. However, it has been demonstrated that the development satisfies the sunlight standard contained in the *TRDCP 2010*, applicable to residential development, and thus the existing dwelling located on one of the affected lots will have reduced sunlight, it does retain adequate sunlight.

### Visual

The proposed two storey development will have a visual impact on adjoining properties given the surrounding area is predominantly single storey. The design includes exterior face brickwork, lightweight cladding and expressed structural concrete piers with openings included along the elevations to break up the building mass. The development includes cut and fill of the site in order to reduce the height and bulk of the two storey building.

The adjoining properties include a mixture of commercial and residential buildings. The proposed building will be partially screened by the existing outbuildings and vegetation located on the three adjoining properties to the south-west. It is noted, that the backyards of the three properties largely consist of hardstand area with the buildings setback from the rear boundary.

The multi dwelling development located to the north-east will be impacted by the proposed development given the reduced separation, minimal building articulation, and bulk of the building. Whilst, the development will impact upon the adjoining property visually the private open space areas of each unit and the common open space at the rear will remain unimpeded by overshadowing with the proposed building not extending to the rear boundary.

It is considered the proposal contributes to the streetscape by its use of varying materials and articulation on elevation facing East Street. The 4.8 metre setback from the front boundary, which includes landscaping, creates a clear and visually pleasing transition between the public and private domain.

It is acknowledged, the development will result in some form of visual impact on the adjoining properties, predominantly given the two storey nature of the development, however based on the building design, zoning and proximity to the central business district it is considered that the scale and height of the development is appropriate given the likely future character of the area.

### Social Impact

The proposal caters for an increasing demand for child care centres in the Tamworth region with its proximity to the Central Business District and surrounding schools, resulting in a positive social impact on the wider area. Council received several submissions relating to noise, traffic generation, bulk and scale and built form, however it is considered the proposal

### Economic Impact

The proposed development is likely to have a positive economic impact by providing additional employment tradesman's and opportunities for child care workers to cater for a growing region.

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

There are no site constraints identified to the use of the property for the proposed use. Asbestos has been identified in the existing building, and it is considered this can be addressed by the recommended condition of consent.

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

In accordance with Council's *TRDCP 2010*, the application was placed on public exhibition from 10 September 2018 to 24 September 2018. Eight submissions were received during the exhibition period. The submissions are **ENCLOSED**, refer **CONFIDENTIAL ENCLOSURE 1**.

A summary of the issues raised in the submissions is provided below. These issues have been addressed in the body of the report:

- *the proposed development will result in my backyard being in shade for the majority of the morning in the middle of winter;*
- *the windows in the proposed building overlook my backyard and I have genuine concerns for my privacy;*
- *the plans show the car parking area facing my home and I am concerned about noise and fume emanating from the ground level parking area;*
- *the proposal is an overdevelopment of the site and results in excess bulk and scale given the two storey nature of the development;*
- *East Street is already busy with the proposed development leading to unreasonable increase in traffic generation;*
- *a turning lane into the child care centre should be constructed;*
- *the height of the building is a concern and the shade that is cast over our backyard and building in winter;*
- *the two storey building is absolutely unsuitable in consideration of the surrounding area;*
- *the proposed parking is unrealistic and will not cater for the demand of a 70 children and staff;*
- *we have concerns the on-flow of the inadequate parking will provide severe congestion into East Street;*

- *this development will negatively affect our business as a large majority of our clientele transport caravan and trailers and additional traffic will severely impact for larger vehicles to manoeuvre in East Street;*
- *the first floor play area does not provide any noise attenuation on the north-west elevation to minimise noise emissions on adjoining properties;*
- *the ground level play area is opposite our business which will generate noise via children activities. The Colorbond fence proposed will do little to minimise sound from the play area;*
- *will the development be required to upgrade the Peel Street and East Street intersection as a condition of consent?*
- *there will be at least an additional 150 traffic movements per day for this type of development;*
- *the Applicant should be made to provide vehicle swept paths for a B99 vehicle. The car parking area is extremely tight and I do not believe that vehicles can adequately manoeuvre in and out of parking spaces;*
- *the proposal does not consider the Draft Child Care Planning Guidelines;*
- *the proposal does not include “extensive landscaping” as stated in the SEE with only 4.5% of the site landscaped;*
- *the height of the proposed building is not appropriate on this block of land and is not consistent with the surrounding area. There is no other two storey development in the immediate area;*
- *has an Average Annual Daily Traffic Count Survey been undertaken? This is a very busy street with includes allot of heavy vehicles, caravans and other vehicles which cause significant traffic generation;*
- *the ongoing bat problem will create a harmful environment for children;*
- *the underground car parking area will promote unsavoury activities after hours;*
- *the north east elevation presents a blank two storey brick wall for the tenants in the three residential properties;*
- *how many children and staff will be accommodated in the child care facility? and*
- *it is a massive overdevelopment of the site in that is covers virtually the whole area of the site with a two storey building.*

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

The proposal is considered to be in the public interest because it offers a service for which there is a growing demand. Further, there are limited child care services within the proposed locality. The site is located on the fringe of the Tamworth Central Business District and is easily accessible from this area in addition to a number of primary and secondary schools and residential areas.

**(a) Policy Implications**

Nil

**(b) Financial Implications**



The contribution for car parking spaces that Council may levy pursuant to the Tamworth Regional Council Section 94 (Direct) Contributions Plan 2013, for the shortfall of onsite parking is \$52,134. As the proposal will not lead to an unreasonable demand of on-street parking and other public car parking in the vicinity, and Council may only levy a contribution under one plan, an amount of \$14,810 will be levied under the Tamworth Section 94A (Indirect) Contributions Plan 2013.

**(c) Legal Implications**

Nil

**(d) Community Consultation**

Community consultation was undertaken through advertising and notification of the development application in accordance with the *Tamworth Regional Development Control Plan 2010*.

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

A Region of Progressive Leadership – L11 Provide quality customer service.

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

Eight submissions were received during the exhibition period and the Applicant has requested that the payment of a contribution toward the shortfall in parking is waived.

**CONCLUSION:**

This report provides an assessment of the development with regard to all relevant matters listed under Section S4.15 of the *Environmental Planning and Assessment Act 1979*, and issues raised in the public submissions.

The proposed development is consistent with State Environmental Planning Policy (*Educational Establishments and Child Care Facilities*) 2017, the *Tamworth Regional Development Control Plan 2010*, and the *Tamworth Regional Development Control Plan 2010*.

Further, it is considered that the development will have a positive contribution to the site and the community by providing additional child care centre within close proximity to the Central Business District.

The subject site is located in a mixed use zone which caters for a wide range of land uses. It is considered the development has been designed having consideration to the existing and future desired character of the area. As a consequence, it is recommended that the application be determined by the granting of consent, subject to the recommended conditions.

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## **8 INFRASTRUCTURE AND SERVICES**

### **8.1 PARADISE PUMP STATION - CAPPING OF OLD WELLS – FILE NO SF726**

**DIRECTORATE:** WATER AND WASTE

**AUTHOR:** Bruce Logan, Director Water and Waste

**Reference:** Item 7.2 to Ordinary Council 12 February 2019 - Minute No 6/19

## **RECOMMENDATION**

***That in relation to the report “Paradise Pump Station – Capping of Old Wells”, Council not cap the old wells at the Paradise Pump Station but proceed with Option 1B as resolved at the Council meeting of 12 February 2019 which includes filling the wells in.***

## **SUMMARY**

The purpose of this report is to seek direction from Council in relation to the capping of the old wells at the Paradise Pump Station as part of the previously agreed demolition of the structure.

## **COMMENTARY**

Councillors may recall a report to the Council meeting of 12 February 2019, concerning the presence of asbestos at the old Paradise Pump Station and detailing three options to address this issue. Following consideration of the report Council resolved as follows:

*That in relation to the report “Paradise Pumping Station – Remediation of Structure”, Council:*

- (i) agree to proceed with rehabilitation of the site as per Option 1B;*
- (ii) approve funding for the rehabilitation from the Water Reserve; and*
- (iii) request the Director Water and Waste approach the relevant NSW Government Department seeking an exemption to the requirement to fill in the existing wells, such that the existing wells are capped and made safe for possible use in the future, subject to the necessary licenses being obtained.*

In relation to item (iii) staff have contacted the NSW Department of Industry - Water and received verbal approval to cap the existing wells rather than fill them in as was originally contemplated in the report of 12 February 2019. However, the following information is provided with respect to capping the wells:

- any cap would have to be structurally designed and constructed so that the roof didn't cave in;
- advice has been received that the concrete cap on top of the wells would cost in the order of \$300,000. In comparison the total cost of Option 1B, selected by Council, was \$481,000 which included an allowance of \$100,000 for the filling and remediation of the wells;
- installation of any roof structure will require ongoing maintenance and inspections to ensure the structures soundness for public safety; and
- in the event that further ground water was required from the area a 300mm diameter bore installed to the depth of 15m would cost in the order of \$50,000 and would be a far easier option to equip for pumping rather than rehabilitating and equipping the old wells.

Based on this it is considered Council should not proceed with capping of the old wells, but continue with the agreed option 1B as previously resolved which included filling the wells in.

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

Nil

**(b) Financial Implications**

The cost of Option 1B, the option Council elected to proceed with at its Meeting of 12 February 2019, is estimated to cost \$481,000.

**(c) Legal Implications**

Nil

**(d) Community Consultation**

Nil

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

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

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**8.2 ATTUNGA WATER SUPPLY HARDNESS – FILE NO SF2903**

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

**3 ANNEXURES ATTACHED**

**RECOMMENDATION**

*That in relation to the report “Attunga Water Supply Hardness”, Council:*

- (i) agree to undertake a full scale trial (Option Three) of the MEA devices at Attunga;*
- (ii) provide funding for the trial from the Water Reserve; and*
- (iii) request the Director Water and Waste provide updates to Council as the trial progresses.*

**SUMMARY**

In early March 2018, there was some media interest and associated criticism of Council concerning the hardness of the reticulated water supplied to the residents and businesses of Attunga.

Since that time staff have investigated options which may be used to improve the quality of the water supplied to Attunga. The purpose of this report is to seek direction from Council in relation to this issue.

**COMMENTARY**

The Attunga water supply system provides water to 155 connections, with an average consumption of 49.4 Megalitres per year. Water supplied to Attunga is currently sourced from two groundwater bores. The design capacity of the bores and the existing chlorination system is 0.6 ML/d.

The two bores supply a reservoir of 0.775 ML capacity.

A chlorination system which chlorinates water for disinfection is located on the intake side of the reservoir. A diagram of the water supply system is shown below.



Water hardness is an aesthetic water quality issue. High water hardness causes scale formation in pipes and heating elements (particularly hot water system and kettles - and affects soap lathering.

Hardness reacts with soaps to form soap scum rings visible on bath tubs in areas with high water hardness. High hardness can also have a negative impact on washing machine and dishwasher performance and very hard water can have a dirty feel to it when used for bathing. If allowed to dry on a surface hard water will leave spotty marks, particularly on glass.

Water hardness is caused by high concentrations of calcium and/or magnesium ions in the water. The hardness concentration in the bore water at Attunga is around 300 mg/L as CaCO<sub>3</sub>. The Australian Drinking Water Guidelines (ADWG) aesthetic limit for hardness is 200 mg/L. The Guidelines set health and aesthetic limits for certain parameters. A health limit is one where exceedance may cause health issues for a consumer, whilst an aesthetic limit is one where the health of the consumer will not be affected by exceeding the limit, but other qualities, not health related, will be adversely affected. The following table provides details of the average hardness of raw water used to supply drinking water across the Council area.

Location	Raw Water Source	Total Hardness Levels (mg/L as CaCO <sub>3</sub> ) For the period Jan 2017 - Current		
		Min	Max	Average
Tamworth (inc. Kootingal/Moonbi)	Peel Intake Raw	89	198	<b>151</b>
	Dungowan Raw	27	59	<b>38</b>
	Paradise Wells (no current results available)	N/A	N/A	N/A
Manilla	Namoi River	60	387	<b>211</b>
	Manilla River	212	320	<b>260</b>
Barraba	Split Rock Dam	136	192	<b>159</b>
	James Street Bores (no current results available)	N/A	N/A	N/A

Bendemeer	MacDonald River	50	68	<b>59</b>
	Airlie Road Bore	142	144	<b>143</b>
Nundle	Crawney Road Bore	328	379	<b>361</b>
	Peel River	270	375	<b>309</b>
Attunga	Raw Water Bore 1	212	296	<b>257</b>
	Raw Water Bore 2	328	343	<b>336</b>

Treatment for reducing water hardness is called water softening, which can be achieved through a number of processes. In June 2018, consultant Hunter H2O was engaged to look at options available to Council to reduce the hardness of the water supplied at Attunga. A copy of the final report prepared by Hunter H2O is **ATTACHED**, refer **ANNEXURE 1**. The report looks at seven options. A summary of the options is provided in the table, **ATTACHED**, refer **ANNEXURE 2**.

The investigation undertaken by Hunter H2O found the lowest cost option to be water conditioning. The advantages of this type of treatment are:

- low cost;
- no chemicals;
- low power consumption; and
- widely available.

And the disadvantages are:

- scientifically unproven treatment;
- may not work or have an appreciable impact on treated water or scaling;
- no control over treatment performance; and
- anti-scaling effects (if any) may not be long lasting; and likely would have no impact on detergent use.

The largest issue with using water conditioners is that whether the system actually reduces the hardness of water cannot be directly and repeatedly tested. That is, all currently available tests used for measuring the hardness of water will return the same results before and after the conditioner. As a result, whether or not, the conditioner works is subjective in nature and means that Council cannot demonstrate the conditioner is reducing water hardness.

Council may recall a water conditioner was trialled in Barraba several years ago, however the results of the trial were inconclusive and the permanent installation of a water conditioner did not proceed.

In around March 2018, a local company, acting as an agent for the manufacturer of a water conditioner, approached Council staff in relation to a water conditioner, not the same type or brand as that used in the trial at Barraba, and suggesting Council may like to trial the unit at Attunga. The unit proposed for trial is called an MEA device (Magnetised, Energised and Activated). The report **ATTACHED**, refer **ANNEXURE 3**, provides some details about the MEA device and its effect on water.

Following consideration it was decided to undertake a trial of the unit by installing one unit on one private residence in Attunga. The residents would be asked to fill out a questionnaire in relation to water quality, in particular hardness, before the unit was installed and then complete the same questionnaire after the unit had been installed for six months.

Some key responses from the residents in relation to the water quality before the trial are presented below:

- very hard, don't drink it;
- leaves skin feeling itchy and dry;
- large build up of calcium on all appliances, shower screens and walls;
- shower rose requires soaking in CLR every one to two months; and
- numerous metal sprinklers seized after about two months – require soaking in CLR.

Responses after the trial include the following:

- shower head has not clogged;
- has not had to replace sprinkler heads;
- no scums marks in shower;
- noticed there is no calcium build up; and
- water smells better.

Given the positive response from the trial some direction from Council is required in relation to how to proceed, if at all. Options available to Council include:

1. Do Nothing

Whilst the water at Attunga can be considered quite hard, the water still meets the Australian Drinking Water Guidelines and, as a result, there is no mandatory requirement for Council to take any action to reduce hardness of the water at Attunga.

2. Conduct a further larger trial

Given there is no testing that can demonstrate hardness in the water has been reduced as a result of the installation of the MEA device and therefore it would be difficult for Council to refute claims in the future that the system does not work and Council has wasted public money, a further, wider trial may be appropriate.

Council could purchase more of the devices, for instance up to 12 more of the devices, and install them on property within Attunga. Residents/property owners would again be asked to complete a questionnaire before and after the trial and the results would further inform Council's deliberations on this matter.

Alternatively, Council could purchase more devices, install them all on properties in Attunga, but turn off half of the devices. Residents would not be told whether their device was working or not, would fill out the questionnaire and once the results were received the results would be considered in conjunction with whether or not the device installed on a particular property was actually working. Again the results would further inform Council's deliberation on this matter.

The estimated cost of this option is \$21,000 for 12 units.

3. Install devices on the main supply from the bores to the reservoir

The MEA devices are manufactured in two sizes – a 20 mm and a 50 mm diameter device. Given Attunga is a relatively small system it is possible to install a number of the larger 50 mm diameter devices in parallel and treat all the water pumped from the

bores to the main reservoir. In this way all residents and business in Attunga would receive water “treated” by a device.

All property/owners, residents, and business owners in Attunga could then be considered as part of a wider trial and be requested to complete a survey/questionnaire about the water quality before and after the new devices were installed.

The estimated cost of this option, including purchase and installation of five of the 50mm devices is \$32,000.

When considering the three options listed and assuming Council does not wish to pursue option one, the do nothing option, then the following comments are provided in relation to option two and three.

If Council opts for option two, spends \$21,000 on an additional 12 by 20 mm diameter MEA devices and the results of the trial are inconclusive, or suggest the devices do not work, then it could be considered Council has wasted its money. If the trial is considered a success then Council will have to decide whether to roll the system out to all the Attunga property owners. If so, the most cost effective way to do this is to remove the 12 smaller devices from individual connections and install the larger diameter devices as per option three above.

With option three if the trial is considered a failure then Council could remove the installed devices and accept that the \$32,000 spent on the full size trial could be considered a waste of money. If the trial is considered a success then no further work is required.

Given the hardness figures for Nundle if the trial at Attunga is considered a success then it is likely Council will be asked to install the same devices at Nundle. On that basis and when considering the lowest cost option, it is recommended Council move forward with option three and undertake a full scale trial of the MEA devices at Attunga.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

The cost of the full scale trial is estimated at \$32,000. There are no funds in the current annual operating plan to undertake this work, therefore should Council agree with the recommendation funds would have to be made available from the Water Reserve.

**(c) Legal Implications**

Nil

**(d) Community Consultation**

If Council elects to proceed with the full scale trial – option three, community consultation will, be undertake in conjunction with the roll out of the trial the return of completed questionnaires and the trial results.

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

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

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### **8.3 EXTENSION OF THE DOMESTIC WASTE VOUCHER TRIAL IN ALIGNMENT WITH THE EXTENSION OF THE WASTE CONTRACT TO JUNE 2021 – FILE NO SF4413**

**DIRECTORATE:** WATER AND WASTE  
**AUTHOR:** Angela Dodson, Sustainability Officer  
**Reference:** Item 8.4 to Ordinary Council 26 February 2019 - Minute No 37/19

#### **RECOMMENDATION**

*That in relation to the report “Extension of the Domestic Waste Voucher Trial in Alignment with the Extension of the Waste Contract to June 2021”, Council:*

- (i) continue the domestic waste voucher trial in parallel with the extension of the waste contract until June 2021;*
- (ii) approve the change to the domestic waste voucher trial and issue all properties levied a Domestic Waste Management Service Charge; one free waste voucher in July and February each year until the completion of the extended Waste Contract in June 2021;*
- (iii) allocate necessary funding to cover the cost of the continued trial from the Waste Reserve; and*
- (iv) consider the future of the bulky goods collection and/or the provision of vouchers as part of the new long term contract for the provision of waste services, scheduled to commence in July 2021.*

#### **SUMMARY**

The purpose of this report is to request Council approval for the continuation of the trial of a Domestic Waste Voucher (DWV) system as a suitable option to replace the Bulky Household Waste Collection (BHWC) in the new waste contract for domestic properties.

Council at its Meeting on 26 February 2019, resolved to extend the current waste contract until the end of June 2021, and continuing the DWV trial in alignment with the extension of this contract, will allow Council to trial some proposed changes to the DWV system in an attempt to resolve some issues highlighted in feedback received during the trial to date.

#### **COMMENTARY**

The waste voucher trial commenced in July 2018. As part of the trial Council agreed the vouchers would be issued with the Council's annual rates notice to the property owner, or the authorised agent, as per Council's normal correspondence protocol, and the trial was scheduled to conclude in July 2019.

As at 30 April 2019, there have been a total of 3,191 vouchers presented across all of Council's waste management centres which currently equates to approximately 6% presentation of distributed vouchers. It should be noted the current domestic waste vouchers are valid for presentation until 31 July 2019.

Tamworth Waste Management Centre has received 75% of the domestic waste vouchers due to the majority of population location; the remaining 25% is spread across all other waste management facilities. There have been minimal instances where both vouchers have been presented on the same day and during the monitoring process, there have been no duplicated vouchers presented.



Whilst the trial is running the Bulky Household Waste Collection (BHWC) in June and November each year, continues. Since the waste vouchers were distributed, the November 2018 BHWC has been undertaken. There was an increase of 37 tonne of material collected compared to the November 2017 collection, which all ended up in landfill and the servicing costs increased an additional \$3,308.84.

Service Cost of BHWC	2014/15	2015/16	2016/17	2017/18	2018/19
Nov BHWC	\$51,163.37	\$52,502.99	\$53,716.70	\$55,046.05	\$58,354.89
June BHWC	\$50,820.10	\$51,610.37	\$52,533.62	\$56,037.76	YTBC
Total	\$101,983.47	\$104,113.36	\$106,250.32	\$113,100.81	\$58,354.89

Tonnes Disposed to Landfill	2014/15	2015/16	2016/17	2017/18	2018/19
November BHWC	201 tonne	126 tonne	201 tonne	160 tonne	197 tonne
June BHWC	309 tonne	325 tonne	222 tonne	315 tonne	YTBC
Total	510 tonne	451 tonne	423 tonne	475 tonne	197 tonne

YTBC = *Yet to be completed*

Currently, properties that have a Domestic Waste Management Service Charge applied and receive a kerbside collection are eligible for vouchers, as DWV's are being considered as a replacement for BHWC in a new waste contract as part of the Domestic Waste Management Services charge.

During the trial, feedback was received including:

1. a small number of the real estate agents raised with Council the increased volume of work waste vouchers created for their staff in making the vouchers available for tenants and the time taken liaising with tenants for the rental properties they are engaged to manage by property owners.

Additionally, Council has been advised that there have been some occasions where real estate agents have been required to be the liaison between the owner of the property and the tenant in relation to accessing the domestic waste vouchers, as the owner has not wanted to pass the vouchers on to the tenant to utilise. The voucher therefore was not received by the intended recipient at that property;

2. the first round of vouchers were issued with the annual rates notice in July and both vouchers could have potentially been utilised by one tenant who then vacates a property and the new tenant may not have access to any vouchers;
3. new residential properties that have been completed and then commence accessing waste services throughout the year, have to wait until the next full rateable year to receive any waste vouchers;
4. properties that have sold through out the year, new owners are not able to access the waste vouchers;
5. numerous owners advised that they accidentally threw out the waste vouchers when they received their rates notices because they only look at the rates notice itself and everything else is discarded - vouchers are not reissued;

6. residents didn't realise there were domestic waste vouchers included with the rates notices as the vouchers didn't look like a voucher but more like a generic page of information and they were expecting something different - vouchers are not reissued;
7. residents who don't have a ute or a trailer are required to find a way to get their rubbish to the landfill to utilise the free vouchers; and
8. requests for the vouchers to be extended to be made available to all domestic properties with no dwellings or farm land and not just limited to the properties with a kerbside waste service.

Staff have sought legal advice which confirms Council can issue the DWV's directly to the property where the kerbside waste service is applied and utilised and not to the property owner with the annual rates notice. Given this advice, if Council agreed to continue the trial then the following is suggested:

- issue the vouchers direct to the property where the kerbside waste service is applied. This addresses issues raised by Real Estate Agents in relation to workload and also addresses issues associated with landlords not passing the vouchers onto their tenants;
- issue one voucher to the property in July and another voucher to the same property in February. This partly addresses changes in tenants, property ownership, lost vouchers etc.;
- mail out the voucher separate to the rates notice in July to reduce the chance the voucher is thrown away;
- investigate changes to the format of the vouchers to make them more recognisable to users that they are vouchers; and
- in relation to extending access to the DWV to include domestic properties with no dwellings or farm land, the DWV trial is only applied to domestic properties that receive a kerbside collection service and they are considered part of that kerbside collection service suite only and widening the trial is not recommended.

Whilst the above suggestions do not address all of the issues raised during the trial it is considered they will improve the roll out of waste vouchers should Council agree to extend the trial.

Continuing the trial of the DWV provides the following benefits:

- given all waste delivered under the Bulky Household Waste Collection is landfilled, continuation of the trial provides an opportunity for better resource recovery of recyclables through material separation at site (eg, metal, green waste, CRC materials);
  - educational opportunities of residents around diversion opportunities (e.g. sort their waste so recyclable items can be disposed of for free and vouchers cover the non recyclable items);
  - flexibility for residents to dispose of their items when it suits them at any time of the year and not having to wait until the biannual clean up dates;
  - encourage community capacity building between neighbours, family, friends or service groups. Residents or service groups may wish to extend a helping hand fellow members of the community by bringing waste to site and providing their voucher to use for disposal;
-

- potentially create a business opportunities for residents;
- improved whole of Council region approach for residents who receive a kerbside service and not just limited to towns and villages where BHWC apply;
- Council is able to track presentation rates of vouchers and other waste related data into the future with improved streamlined onsite systems;
- community amenity will be improved with the reduction in material being presented for BHWC and sometimes well before the collection date;
- potentially illegal dumping of waste dumped out the front of properties can be managed differently into the future; and
- community safety will be improved with the reduction in the material being left on the kerbside and potentially how long items maybe present.

Should Council decide to continue with the domestic waste management voucher trial then because of the current contract obligations the Bulky Household Waste Collection (BHWC) service will still be held and provided in addition to the waste vouchers.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

At present the number of properties that pay a domestic waste management service charge and are therefore eligible for two vouchers is 24,700.

In the present financial year the cost of the Waste Voucher Trial for was approximately \$11,500 this included the following:

○ preparation of the vouchers	\$ 8,500
○ postage (included as part of Rates Notice mail costs and not direct to trial)	\$ Nil
○ communication/media expenses	\$ 3,000
<b>Total</b>	<b>\$11,500</b>

Should Council agree with the recommendation and continue the domestic waste voucher trial until June 2021, with one voucher sent in July and one in February each year, then the estimated cost of continuing the trial on an annual basis is approximately as follows:

○ Preparation of vouchers	\$10,500
○ Postage	\$49,500
<b>Total</b>	<b>\$58,500</b>

The cost associated with the trial is not included in the 19-20 Annual Operational Plan. As a result should Council wish to proceed with the trial funding to cover the associated cost would have to be sourced from the Waste Reserve.

**(c) Legal Implications**

Nil

**(d) Community Consultation**

Nil

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

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

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## **9 GOVERNANCE, STRATEGY AND FINANCE**

### **9.1 FEE WAIVER REQUEST TAMWORTH GYMNASTICS CLUB INC. – FILE NO SF7750**

**DIRECTORATE: BUSINESS AND COMMUNITY**

**AUTHOR: Peter Ross, Manager Entertainment Venues**

**Reference: Item 9.2 to Ordinary Council 12 June 2018 - Minute No 193/18  
Item 9.5 to Ordinary Council 23 May 2017 - Minute No 149/17**

**3 CONFIDENTIAL ENCLOSURES ENCLOSED**

#### **RECOMMENDATION**

***That in relation to the report “Fee Waiver Request Tamworth Gymnastics Club Inc.”, Council consider and determine the request.***

#### **SUMMARY**

The purpose of this report is to advise Council that the Tamworth Gymnastics Club Inc. has requested a further reduction in hire fees for the use of the Tamworth Regional Entertainment and Conference Centre (TRECC) to host the “*Country Capital Cup*” event from 13 June 2019 to 16 June 2019.

#### **COMMENTARY**

Tamworth Gymnastics Club Inc. (the Club) has hosted the “*Country Capital Cup*” (the event) annually at TRECC since 2015, and is again holding the event from 13 June 2019 to 16 June 2019. Council has supported this event over the past three years and contributed \$4,006.04 in 2016, 2017 and 2018.

The Club requested a quotation for the hire fees of TRECC for the 2019 event, and a written quotation was provided, **ENCLOSED**, refer **CONFIDENTIAL ENCLOSURE 1**.

The event in 2019 is again a three-day event, and the quotation includes resource items and additional time for set up and set back of the venue at a considerable reduced community and packaging rate. In 2019, the cost also includes the hire of Tamworth War Memorial Town Hall for a part of the event.

On 23 March and 17 April 2019, letters were received by Council from the Club’s Secretary requesting a contribution from Council by way of a further reduction in the hire fees, similar to previous years. Copies of the letters are **ENCLOSED**, refer **CONFIDENTIAL ENCLOSURE 2** and **3**.

As detailed in the Club’s letters, the event is expected to attract up to 1100 registrations. Each registered gymnast will have supporting companions and would stay in the city for two to three nights. Over the previous six years, with four of those years at TRECC, the Club has grown the event considerably. This is a great achievement.

The letters from the Club also highlight the 2019 event projected economic benefit to the city, would equate to \$1,641,221.40

**(a) Policy Implications**

Nil

**(b) Financial Implications**

If approved by Council, an allocation of funds would be sourced from the General Fund.

**(c) Legal Implications**

Nil

**(d) Community Consultation**

Nil

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

A Region of Progressive Leadership – L12 Represent and advocate community needs.

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## **10 COMMUNITY SERVICES**

### **10.1 FEE WAIVER REQUEST FROM UNITED IN COMPASSION – FILE NO SF8450**

**DIRECTORATE: BUSINESS AND COMMUNITY**

**AUTHOR: Mickaela Fairall, Senior Business Support Officer**

**1 CONFIDENTIAL ENCLOSURES ENCLOSED**

#### **RECOMMENDATION**

*That in relation to the report ‘Fee Waiver Request from United in Compassion’, Council consider and determine the request.*

#### **SUMMARY**

The purpose of this report is to advise Council that United in Compassion has requested a further reduction in the hire fees for the use of the Capitol Theatre and its associated costs for a screening to be held on 30 May 2019.

#### **COMMENTARY**

United in Compassion (UIC), a registered Charity, and DC Stories will be co-hosting a screening of ‘High as Mike’ - an Australian medicinal cannabis documentary at the Capitol Theatre. The documentary which was born in Tamworth was completely self-funded by DC Stories. It features Tamworth patients and the Tamworth region.

The UIC has received a written quotation from Entertainment Venues totalling \$1,450 for the hire of the venue and associated costs. Within the costs is an amount of \$550, listed as ‘Other Charges’, this charge is incurred for the use of cinema resources. A copy of the Entertainment Venues Estimated Quotation is **ENCLOSED**, refer to **CONFIDENTIAL ENCLOSURE 1**.

A UIC representative has submitted the request seeking Council's consideration to waive the fees for the screening at the Capitol Theatre as a show of support for the work of UIC and DC Stories, who have showcased Tamworth as the birth place of medicinal cannabis reform in Australia.

UIC has also requested Council share and support the screening through promotion on Council's website and via social media platforms.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

If approved by Council, an allocation of funds would be sourced from the General Fund.

**(c) Legal Implications**

Nil

**(d) Community Consultation**

Nil

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

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

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**10.2 DISABILITY ACTION WORKING GROUP MEETING MINUTES - 9 APRIL 2019 – FILE NO SF3482**

**DIRECTORATE: BUSINESS AND COMMUNITY**  
**AUTHOR: Kay Delahunt, Manager Cultural Services**

**1 ANNEXURES ATTACHED**

**RECOMMENDATION**

*That in relation to the report "Disability Action Working Group Meeting Minutes – 9 April 2019", Council receive and note the Minutes.*

**SUMMARY**

The purpose of this report is to present the Minutes of the Disability Action Working Group (DAWG) Meeting held on 9 April 2019, and provide Council with an overview of the outcomes.

**COMMENTARY**

The main topics discussed at the meeting are detailed in the Minutes **ATTACHED**, refer **ANNEXURE 1**.

The meeting can be summarized as follows:

- the meeting received an update on progress with the Transport Hub;
- the group was advised that its request for two disability car parking spaces in White Street was endorsed by Council at its Ordinary Meeting on 26 March 2019;

- a report was provided by the Tamworth Access Group. This report identified that a problem exists for the sight impaired as they can bump into the banners outside the Library. (The banners will be anchored higher up the pole so there is no obstruction at head height) A was also requested tactile tiles be placed near the Peel Street pedestrian crossing outside the Parry Building;
- the group suggested the purchase of an interpretive sign that may be suitable for display at the Liberty Swing or inside the library. Quotes are being sought and a report will be prepared; and
- discussion also took place on the availability and price of MLAK keys.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Nil

**(c) Legal Implications**

The activities of the Disability Action Working Group assist Council in meeting legislative requirements under the Disability Inclusion Act 2014, Australian Government NDIS Act 2013, The NSW Anti-Discrimination Act 1977 and the Local Government Act 1993, which require Council to provide adequate, equitable, and appropriate services and facilities for the community.

**(d) Community Consultation**

Nil

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

A Spirit of Community – C14 Meet social justice principles through the provision of accessible high-quality, integrated community services that meet current and emerging needs.

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**10.3 ABORIGINAL COMMUNITY CONSULTATIVE COMMITTEE FOR TAMWORTH REGIONAL COUNCIL (TACCC) - MEETING MINUTES 20 MARCH 2019 – FILE NO SF6520**

**DIRECTORATE: BUSINESS AND COMMUNITY**  
**AUTHOR: Kay Delahunt, Manager Cultural Services**

**1 ANNEXURES ATTACHED**

**RECOMMENDATION**

*That in relation to the report “Aboriginal Community Consultative Committee for Tamworth Regional Council (TACCC) – Meeting Minutes 20 March 2019”, Council receive and note the Minutes.*

**SUMMARY**

The purpose of this report is to present the Minutes of the meeting of the Tamworth Aboriginal Community Consultative Committee for Tamworth Regional Council held on 20 March 2019, and provide Council with an overview of the outcomes.

## **COMMENTARY**

A summary of the key items discussed at the Aboriginal Community Consultative Committee for Tamworth Regional Council is **ATTACHED**, refer **ANNEXURE 1**, and summarised as listed below:

- Tamworth Regional Youth Council member Josh Turner provided the meeting with an overview of the Tamworth Regional Youth Council;
- TACCC Terms of Reference review was deferred to the next meeting;
- Tamworth Regional Council website Aboriginal content development was deferred to the next meeting;
- a copy of the 'Tamworth Regional Council Innovate Reconciliation Action Plan December 2018 - December 2021' was distributed and discussed;
- the meeting was updated on the progress against actions in the Tamworth Region Cultural Plan 2018-2023; and
- the Chair updated the meeting on the planning for NAIDOC Day 2019.

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

Nil

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

Nil

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

Nil

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

To foster ongoing communication, Business Papers and Minutes for the Aboriginal Community Consultative Committee for Tamworth Regional Council are disseminated to both the members and the organisations they represent.

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

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

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## **11 REPORTS FROM DELEGATES**

Nil

## **12 QUESTIONS ON NOTICE**



## **13 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.*

#### **13.1 ILLUMINATED STREET SIGNS - CLAUDE OUTDOOR PROPOSAL – FILE NO SF218**

**DIRECTORATE:** CORPORATE AND GOVERNANCE  
**AUTHOR:** Chris Weber, Director Corporate and Governance  
**Reference:** Item 14.4 to Ordinary Council 13 November 2019 - Minute No 295/18

**2 CONFIDENTIAL ENCLOSURES ENCLOSED**

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

#### **SUMMARY**

Council has been approached by Claude Outdoor about entering into an agreement with Tamworth Regional Council for the provision of Illuminated street signage which was deferred by Council at the Meeting on 13 November 2018, to allow for further information in relation to the contract. This report outlines the new contract conditions proposed by the company for Council's consideration.

#### **13.2 POSSIBLE PURCHASE OF PROPERTY - WALLAMORE ROAD TAMWORTH – FILE NO LF1235**

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

**2 CONFIDENTIAL ENCLOSURES ENCLOSED**

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**

The purpose of this report is to seek direction from Council in relation to the possible purchase of a parcel of property located on Wallamore Road, Tamworth.

#### **13.3 TENDER T117/2019 - SUPPLY OF CATTLE GRIDS – FILE NO T117/2019**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Murray Russell, Manager Infrastructure and Projects

**1 CONFIDENTIAL ENCLOSURES ENCLOSED**

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 approval to award Tender T117/2019 Supply of Cattle Grids, and enter into a contract for the supply of cattle grids for the Cattle Grid Drought Relief Project.

**13.4 STORMWATER FOR FORMER SALEYARDS SITE AT GLEN ARTNEY, WESTDALE – FILE NO SF7600**

**DIRECTORATE: REGIONAL SERVICES**  
**AUTHOR: Graeme McKenzie, Manager Design and Construction**

**Reference: Item 15.5 to Ordinary Council 30 October 2018 - 237/18**

**1 CONFIDENTIAL ENCLOSURES ENCLOSED**

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

**SUMMARY**

The purpose of this report is to advise Council of the outcome of negotiations in relation to the drainage channel through Lot 10 Deposited Plan 817077, and Lot 44 Deposited Plan 119974, the former Saleyards site at Glen Artney, as part of the sale of that land.

Considerable benefits can be generated for all parties by engaging the developer's Contractor to construct the drainage channel on behalf of Council.

## **CLOSED COUNCIL**

### **Confidential Reports**

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

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

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

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

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

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

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

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

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

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

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

#### **Resolutions passed in Closed Council**

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