

**evocities**  
REGIONAL CITY LIVING

# TAMWORTH REGIONAL COUNCIL

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

## ORDINARY COUNCIL AGENDA

**17 DECEMBER 2024**

**PAUL BENNETT**  
**GENERAL MANAGER**

## Order of Business

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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*

<b>Membership:</b>	<b>All Councillors</b>
<b>Quorum:</b>	<b>Five members</b>
<b>Chairperson:</b>	<b>The Mayor</b>
<b>Deputy Chairperson:</b>	<b>The Deputy Mayor</b>

## Community Consultation Policy

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

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

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

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

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

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

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

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

### Disclosure of Political Donations or Gifts

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

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

## AGENDA

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

### **RECOMMENDATION**

*That the Minutes of the Ordinary Meeting held on Tuesday, 10 December 2024, copies of which were circulated, be taken as read and confirmed as a correct record of the proceedings of the Meeting.*

### **4 DISCLOSURE OF INTEREST**

Pecuniary Interest

Non Pecuniary Conflict of Interest

Political Donations

### **5 MAYORAL MINUTE**

#### **5.1 CMAA RESEARCH PROJECT - THE ECONOMIC AND CULTURAL VALUE OF COUNTRY MUSIC IN AUSTRALIA**

**DIRECTORATE:**                   **OFFICE OF THE GENERAL MANAGER**  
**AUTHOR:**                       **Russell Webb, Mayor**

**1 ANNEXURES ATTACHED**

### **RECOMMENDATION**

*That in relation to the report “CMAA Research Project - The Economic and Cultural Value of Country Music in Australia”, Council contributes an amount of \$4,500 towards the project.*

### **SUMMARY**

The President and Chair of the Country Music Association of Australia, Mr Dobe Newton, has written to Council seeking financial support of \$4,500 to undertake a research project into *The Economic and Cultural Value of Country Music in Australia*. CMAA has recently received notification that Create NSW has approved funding to underpin the flagship Academy of Country Music programs with a small amount also allocated to assist in updating the findings from the 2019 research.

### **COMMENTARY**

A similar project was undertaken in 2019, and the subsequent report was considered instrumental in providing a powerful advocacy and lobbying tool for the country music industry and was especially influential in gaining the support of the then shadow Minister for The Arts, John Graham MLC. His involvement resulted in a number of trips to Tamworth

where he delivered election promises to support the music industry in NSW and, in particular, Tamworth as Australia's Country Music Capital. The elected government has honoured those promises with significant investment across the country music genre's artistic, business and event sectors.

The 2025 research project will have a focus on gauging the extent of our genre's post-pandemic recovery. The project will seek to confirm the anecdotal evidence that country music, both domestically and internationally, has experienced significant growth in popularity and market performance in recent years. Being able to provide empirical evidence along with insights and recommendations to drive future growth, will again provide powerful evidence to drive policy and regulatory support with State and Federal governments.

Mr Newton will again lead the research with assistance from a team drawn from students enrolled in their Music Business Management, Sound Production and Design degree courses. Data will be collected from existing and new sources to create a comprehensive national profile of the country music industry, including major festivals, concerts and small venue operations, radio airplay and exposure, sales and streaming data, recording and song writing. The final report will also highlight the tourism-related revenue and employment created in the regional areas which host so many of the genre's 'destination' events.

Council's financial contribution would ensure that a series of specific questions would be included in the online data collection relating to our own Country Music Festival and would provide Council with valuable insights into the importance of the Festival to the industry, the economic and social impacts, and opportunities to further develop relationships with creative practitioners such as performers, musicians and songwriters who are at the centre of the industry along with the attitudes, behaviours and expectations of patrons and fans.

A draft report into the findings will be expected to be completed by June 2025, with a plan to publicly launch the final version during the "Hats Off" event in Tamworth in July. A copy of the Key Findings from the 2019 report is **ATTACHED** refer **ANNEXURE 1**.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Should Council adopt the recommendation Council's \$4,500 contribution will be funded from the General Fund.

**(c) Legal Implications**

Nil

**(d) Community Consultation**

Nil

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

Focus Area 8 – A Strong and Vibrant Identity

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## 5.2 GENERAL MANAGER'S CONTRACT OF EMPLOYMENT

**DIRECTORATE:** OFFICE OF THE GENERAL MANAGER  
**AUTHOR:** Russell Webb, Mayor

### **RECOMMENDATION**

*That in relation to the report “General Manager’s Contract of Employment”, Council:*

- (i) receive and note the Mayoral Minute; and*
- (ii) determine this matter in part of this Meeting closed to the public pursuant to Section 10A(2)(a) of the Local Government Act 1993 on the grounds that it relates to personnel matters concerning particular individuals (other than Councillors).*

### **SUMMARY**

The purpose of this report is to record in Open Council the process for the reappointment of the General Manager in accordance with the Local Government Act 1993 (LGA).

### **COMMENTARY**

The General Manager has written to Council, in accordance with Clause 5 of his employment contract, to formally request that Council give consideration to the renewal of his employment contract in conjunction with the performance review in December 2024.

The General Manager commenced employment with Tamworth Regional Council on 6 September 2010, and completed the fourth year of his current five year contract on 5 September 2024. Currently in the last year of the current employment contract, the General Manager is seeking a decision from Council to commit to the renewal of his appointment for a further five year performance based contract commencing from 6 September 2025, and ending on 5 September 2030.

The General Manager has requested that the commencing remuneration be determined with reference to other similar sized regional councils and with future SOORT increases to be applied from subsequent anniversary dates commencing in September 2026.

Section 335 of the Local Government Act 1993 states that:

The general manager of a council has the following functions—

- (a) to conduct the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council,
- (b) to implement, without undue delay, lawful decisions of the council,
- (c) to advise the mayor and the governing body on the development and implementation of the strategic plans, programs, strategies and policies of the council,
- (d) to advise the mayor and the governing body on the appropriate form of community consultation on the strategic plans, programs, strategies and policies of the council and other matters related to the council,
- (e) to prepare, in consultation with the mayor and the governing body, the council’s community strategic plan, community engagement strategy, resourcing strategy, delivery program, operational plan and annual report,

- (f) to ensure that the mayor and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their functions,
- (g) to exercise any of the functions of the council that are delegated by the council to the general manager,
- (h) to appoint staff in accordance with the organisation structure determined under this Chapter and the resources approved by the council,
- (i) to direct and dismiss staff,
- (j) to implement the council's workforce management strategy,
- (k) any other functions that are conferred or imposed on the general manager by or under this or any other Act.

Section 338 of the Act states, in part:

- 1) The general manager of a council must be employed under a contract that is performance-based.
- 2) The term of a contract must not be less than 12 months or more than 5 years (including any option for renewal). A term that is less than 12 months is taken to be for 12 months and a term for more than 5 years is taken to be limited to 5 years".
- 3) Contracts may be renewed from time to time.

The General Manager's current contract commenced on 6 September 2020, and expires on 5 September 2025. The contract contains the following information in relation to the process and timing for consideration of the Renewal of Appointment of the General Manager:

- 5) Renewal of appointment
  - 5.1 At least 9 months before the termination date (or 6 months if the term of employment is for less than 3 years) the employee will apply to Council in writing if seeking re-appointment to the position.
  - 5.2 At least 6 months before the termination date (or 3 months if the term of employment is for less than 3 years) Council will respond to the employee's application referred to in subclause 5.1 by notifying the employee in writing of its decision to either offer the employee a new contract of employment (and on what terms) or decline the employee's application for re-appointment.
  - 5.3 At least 3 months before the termination date (or 1 month if the term of employment is for less than 3 years) the employee will notify Council in writing of the employee's decision to either accept or decline any offer made by Council under subclause 5.2.
  - 5.4 In the event the employee accepts an offer by Council to enter into a new contract of employment, a new contract of employment will be signed.

In accordance with subclause 5.1 the General Manager wrote to Council on 16 October 2024, seeking reappointment for a further five year term. Council now needs to make a determination and respond to the General Manager in accordance with subclause 5.2 before 5 March 2025 (i.e. at least 6 months prior to expiry of the current contract).

In addition, the *Guidelines for the Appointment and Oversight of General Managers* issued by the Office of Local Government states at Section 4 "Renewing a general manager's contract" that;

*The terms of the new contract, and in particular the schedules to the new contract, should be set out in the letter of offer. Before offering a new contract, the council should carefully review the terms of the schedules to the new contract.*

*The governing body of council should ensure that the performance management terms of the new contract adequately reflect its expectations as to the general manager's performance.*

*The governing body of council should also have regard to the previous performance reviews conducted under previous contracts.*

*The process of deciding whether or not to offer a general manager a new contract should be that:*

- *a performance review is conducted;*
- *findings and recommendations are reported to a closed council meeting in the absence of the general manager;*
- *the closed meeting considers and decides whether or not to offer a new contract and on what terms as set out in the schedules to the contract;*
- *the general manager is then advised of the governing body of council's decision in confidence by the mayor.*

*Details of the decision to offer a new contract and a salary package should be reported to an open Council Meeting.*

The General Manager's latest performance review was held on 11 December 2024, and a copy of the outcomes is attached to the Mayoral Minute to be considered in closed Council.

This report will be presented in part of the Meeting closed to the public pursuant to Section 10A (2) (a) of the Local Government Act 1993, on the grounds that the matter and information is personnel matters concerning particular individuals other than Councillors.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

The position of General Manager has been provided for in Council's current and forward Annual Operational Plans.

**(c) Legal Implications**

Section 334(1) of the Act provides that the Council must appoint a person to be its General Manager. The terms of the contract are specified by the Office of Local Government and Council must use the Standard Contract of Employment issued by the Office of Local Government.

**(d) Community Consultation**

Nil

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

Focus Area 9 – Open and Collaborative Leadership

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### 5.3 STATEWIDE MUTUAL – LONDON DELEGATION

**DIRECTORATE:** OFFICE OF THE GENERAL MANAGER  
**AUTHOR:** Russell Webb, Mayor

#### ***RECOMMENDATION***

***That in relation to the report “Statewide Mutual – London Delegation”, Council approve the General Manager’s participation in the delegation.***

#### **SUMMARY**

As Chair of the Finance Committee for Statewide Mutual, the General Manager has been invited to participate in an annual delegation to London to assist with the negotiation of future insurance coverage for member Councils in NSW. The delegation will depart Australia on 15 March 2025, and is expected to return on 23 March 2025. All costs associated with participation in the delegation are covered by Statewide Mutual.

#### **COMMENTARY**

Statewide Mutual (Statewide) was established in 1993 in response to insurance underwriters withdrawing their support for local government in Public Liability and Professional Indemnity cover. Statewide commenced with a membership of 96 councils and has progressively grown to become the leading risk partner for NSW Local Government with membership of 113 councils.

Statewide is a discretionary mutual providing cover for its Member Councils’ major insurable risks. Statewide is a ‘self-insurance mutual’ that is backed by reinsurance placed through local and international underwriters. The member councils own each Scheme and benefit from building equity resulting from surplus contributions.

The member-elected Board ensures the Mutual works for the benefit of its members while utilising JLT’s insurance expertise to provide a whole of risk solution. The Board comprises senior level management from Member Councils representing regions across in NSW and includes the full spectrum of councils, from large metro councils, to large regional centres right through to traditional shire councils. Tamworth Regional Council’s General Manager was elected to the Board in 2020 to represent the North West Region.

The Board is responsible for:

- determining levels and coverage of primary insurance for each fund year and for each scheme;
- establishing annual funds for each fund year, arranging contributions to and payments of liabilities from annual funds; and
- subject to the function of the Claims Committee, the general management of the scheme.

In order to meet its responsibilities, Board representatives will be attending meetings with up to 25 different underwriters plus the Bowring Marsh claims team and actuaries in London during the week of 17 March 2025.

These meetings are used to discuss the information provided in the underwriting submission, provide an update on claims, the ongoing focus on risk management and reassure underwriters that there have been no dramatic changes to the risk profile of Local Government in NSW. The focus of the presentations will be the member’s ongoing response to bushfires, storms and floods, cyber threats, building inspections and general claims

trends, but with an increased focus on the issues arising from PFAS and historical child abuse claims.

Renewal negotiations are an important opportunity for Statewide representatives to engage with the underwriters on the program to address any questions or concerns from the submission in order to achieve the most favourable terms at renewal.

**(a) Policy Implications**

The Travel - Overseas Visits Policy requires a Council resolution for staff to undertake international travel.

**(b) Financial Implications**

All costs in relation to the travel will be covered by Statewide Mutual.

**(c) Legal Implications**

Nil

**(d) Community Consultation**

Nil

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

Focus Area 9 – Open and Transparent Leadership.

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**6 NOTICE OF MOTION**

Nil

**OPEN COUNCIL REPORTS**

**7 ENVIRONMENT AND PLANNING**

**7.1 DA2024-0287 - DEMOLITION, STAGED DEVELOPMENT AND MULTI-DWELLING WITH COMMUNITY TITLE SUBDIVISION ON LOT 11 IN DP 231449 - 15 MANILLA ROAD, OXLEY VALE**

**DIRECTORATE:** **LIVEABLE COMMUNITIES**

**AUTHOR:** **Sam Lobsey, Manager - Development**

**1 ANNEXURES ATTACHED**

**1 CONFIDENTIAL ENCLOSURES ENCLOSED**

**GENERAL MANAGER'S ADVISORY NOTE TO:**

**Councillors**

**Applicants**

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

**Record (Division) of Voting**

**In accordance with Section 375A(3) of the Local Government Act 1993, a Division is required to be called**

whenever a motion for a planning decision is put at a meeting of the Council or a Council Committee.

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

#### **Relevant Planning Application**

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

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

#### **Relevant Public Submission**

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

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

#### **Disclosure of Reportable Political Donations and Gifts**

##### **Planning Applications**

Nil

##### **Public Submissions**

Nil

#### **RECOMMENDATION**

*That in relation to Development Application (DA2024-0287/PAN-412980) for the Demolition of existing dwelling house and outbuildings, Construction in Stages of Eleven (11) dwellings and Community Title Subdivision at Lot 11 DP 231449, 15 Manilla Road, Oxley Vale and Lots 14 and 15 DP 22919, 11-17 and 19-29 Curlew Crescent, Oxley Vale:*

- (i) *Council determine the lapsing period for the development to be two years in accordance with Section 4.53(2) of the EP&A Act 1979; and*
- (ii) *Council grant consent to the development application subject to the following conditions:*

#### **Deferred Commencement**

- A) *This consent shall not operate until suitable drainage easement(s) are created on Lot 14 in DP 22919 (19-29 Curlew Crescent OXLEY VALE NSW 2340) for proposed stormwater infrastructure necessary to convey major flows generated from the upstream catchment, in accordance with Council's Engineering Design Minimum Standards.*

*In accordance with Clause 95(3) of the Environmental Planning and Assessment Regulation 2000, a period of 2) months from the date of this notice is allowed for the satisfaction of the “deferred commencement” requirement. The deferred commencement requirement will be satisfied when Council is given confirmation*

**that drainage easement(s) have been registered on Lot 14 in DP 22919, granted in favour of the benefitting lot(s). Any easement(s) acquired must be suitable for registration of the deposited plan at the Lands Title Office.**

### General

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

Plan	Sheet No.	Prepared by	Revision	Dated
<i>Existing Site/ Demolition Plan</i>	WD3	<i>D &amp; C Projects</i>	8	5/12/2024
<i>Site Setout Plan</i>	WD4	<i>D &amp; C Projects</i>	8	5/12/2024
<i>Landscape Plan</i>	WD5	<i>D &amp; C Projects</i>	8	5/12/2024
<i>Units 1-8 Detailed Sites</i>	WD6	<i>D &amp; C Projects</i>	8	5/12/2024
<i>Unit 6 and Existing Culvert Site Detail</i>	WD7	<i>D &amp; C Projects</i>	8	5/12/2024
<i>Unit 9-11 Detailed Site</i>	WD8	<i>D &amp; C Projects</i>	8	5/12/2024
<i>Gated Entry/BBQ Area/Mailbox and Fencing Details</i>	WD9	<i>D &amp; C Projects</i>	8	5/12/2024
<i>Green Space and Manilla Road Connection</i>	WD10	<i>D &amp; C Projects</i>	8	5/12/2024
<i>Staging Plan</i>	WD11	<i>D &amp; C Projects</i>	8	5/12/2024
<i>Typical Design A</i>	WD12	<i>D &amp; C Projects</i>	8	5/12/2024
<i>Typical Design B</i>	WD13	<i>D &amp; C Projects</i>	8	5/12/2024
<i>Typical Design C – Pre and Post Adaptation</i>	WD14	<i>D &amp; C Projects</i>	8	5/12/2024
<i>Typical Design C Elevations and Sections</i>	WD15	<i>D &amp; C Projects</i>	8	5/12/2024
<i>Unit Design D</i>	WD16	<i>D &amp; C Projects</i>	8	5/12/2024
<i>Unit Design E</i>	WD17	<i>D &amp; C Projects</i>	8	5/12/2024
<i>No Parking Sign</i>	WD19	<i>D &amp; C Projects</i>	8	5/12/2024

Locations				
Plan of Subdivision of Lot 14	22437	Bath Stewart and Associates	Sheet 5/5	31.10.2024

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

*Staging of the Development*

3) *The development is to be carried out sequentially in three stages as follows:*

*Stage 1: Subdivision of original Lot 11 into Lot 1 (Common Property), Lots 3, 5 and 6 and a Development Lot, associated service infrastructure, community facilities and construction of dwellings 9, 10 and 11 (including 1 Affordable Housing Unit);*

*Stage 2: Subdivision of the development lot to create lots 2, 8, 9 and 10 and construction of dwellings 1, 2, 3 and 4 (including 1 Affordable Housing Unit); and*

*Stage 3: Subdivision of the development lot to create lots 12, 13, 15 and 16 and construction of dwellings 5, 6, 7 and 8.*

*Building Work*

4) *All building work must be carried out in accordance with the provisions of the National Construction Code (NCC).*

5) *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.*

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

7) *Pursuant to Section 97A(2) of the Environmental Planning and Assessment Regulation 2000, all the commitments listed in the relevant BASIX Certificate for the development shall be fulfilled at the milestones listed.*

8) *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.*

9) *The Applicant shall consult with, as required:*

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- 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).*

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

#### **Stormwater**

11) *The stormwater drainage system shall be designed and constructed to comply with the following requirements as a minimum:*

- a) *All plumbing within the site must be designed and constructed in accordance with the relevant provisions of Australian Standard AS/NZS 3500.3 (as amended) Plumbing and Drainage – Stormwater Drainage and Council's current version of the Engineering Design Minimum Standards;*
- b) *Temporary down pipes shall be connected as soon as the roof has been covered so as to not cause a nuisance to adjoining properties;*
- c) *All overland surface flow paths must have a practical and satisfactory destination with due consideration to erosion and sediment control during all stages of development. A system to prevent overland flows discharging onto adjoining properties shall be implemented;*
- d) *Access to unit 6 must be able to achieve safe wading criteria as specified within the Floodplain Development Manual (Figure L.1);*
- e) *On-site detention is required for individual allotments discharging into the Bellas Way piped system. Stormwater detention shall be designed and implemented in accordance with Council's Engineering Design Minimum Standards, and be suitable to maintain pre-developed flows for all storm durations and frequencies in the range from 1 year ARI up to and including the 100-year ARI events;*
- f) *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*
- g) *No effluent or polluted water of any type may be allowed to enter the Council's stormwater drainage system.*

*The approved points of discharge for the development are defined as:*

- h) *The existing open channel table drain traversing the site; and/or*
- i) *The existing surface inlet pit connecting to the Bellas Way piped system (located in the south-west corner of the property).*

*Note: stormwater discharging to the Bellas Way piped system shall be detained*

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*to pre-developed flows prior to release.*

12) *The proposed stormwater servicing strategy for the development site shall be prepared to comply with the general terms and conditions as imposed by the NSW Department of Natural Resources Access Regulator.*

#### **Traffic and Parking**

13) *All internal driveways, parking areas, loading bays, vehicle turning areas and barriers are to be designed and constructed to comply with Australian Standard (AS/NZS) 2890.1 Parking Facilities – Off-street parking and AS 2890.6 Parking Facilities – Off-street parking for people with disabilities.*

14) *All internal driveways, parking and loading areas to be constructed with a base course of adequate depth to accommodate the design vehicle loading, being sealed with either asphaltic concrete, concrete or interlocking pavers.*

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

16) *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.*

#### **Prior to the commencement of work for all stages**

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

- A construction certificate for the building work has been issued by the consent authority, Council (if Council is not the consent authority) or an accredited Certifier; and*
- The person having the benefit of the development consent has:*
  - appointed a Principal Certifying Authority for the building work; and*
  - notified the Principal Certifying that the person will carry out the building work as an owner-builder, if that is the case; and*
- The principal certifying authority has, no later than 2 days before the building work commence:*
  - notified the consent authority and Council (if Council is not the consent authority) of his or her appointment; and*
  - 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*
- The person having the benefit of the development consent, if not carrying out the work as an owner-builder; has*
  - appointed a principal contractor for the building work who must be the holder of a contractor license if any residential building work is involved; and*

- (ii) *notified the Principal Certifying Authority of any such appointment; and*
- (iii) *unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work; and*
- (iv) *give at least 2 days notice to Council of the persons intention to commence the erection of the building.*

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

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

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

19) *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*

20) *The developer must install water pollution, erosion and sedimentation controls in accordance with the "Managing Urban Stormwater - Soils and Construction" published by the NSW Department of Housing ("The Blue Book").*

21) *The applicant is to notify all adjoining residents five working days prior to demolition. Such notification is to be clearly written, stating the date demolition is to begin. The notification must be placed in the letterbox of every premises (including units, villas if any) either side of and immediately behind the demolition site.*

22) *To ensure the integrity of Council's water main, the water service(s) shall be disconnected at the water meter by a licensed plumber or Council.*

23) *To ensure the integrity of Council's sewer main, the sewer service(s) shall be disconnected at the junction by a licensed plumber or Council*

24) *A peg out survey prepared by a Registered Surveyor is to be submitted to the Certifying Authority to confirm the building may be sited in accordance with approved plans.*

25) *The contractors engaged on the development 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.*

- 26) *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.*
- 27) *A Traffic Management Plan (TMP) detailing how movements in and out of the site during the construction will be adequately managed so as not to adversely impact the safe operation of the road network shall be submitted to Council. This TMP shall consider both vehicular and pedestrian movements. Where the TMP is of a level of complexity that Traffic Guidance Schemes (TGS's) are required, the TGS's shall be prepared by a person with the applicable certification from Transport for New South Wales (TfNSW) in accordance with AS 1742.3 (as amended) and the TfNSW current version of the "Traffic Control at Worksites" manual.*
- 28) *A Subdivision Works Certificate shall be obtained from Council for the construction of stormwater infrastructure and water realignment works required for this development.*
- 29) *Detailed Engineering drawings and associated supporting documents and calculations shall be submitted to Council in support of the Section 138, Section 68 and Construction and/or Subdivision Works Certificate drawings. All engineering drawings and the associated specifications are to be certified by a suitably qualified and experienced design practitioner*
- 30) *A Construction Management Plan shall be prepared in consultation with, and submitted to, Council prior to the commencement of works. The plan shall include, but not be limited to, the following matters which are to be addressed by a suitably qualified person(s):*
  - a) *Hours of Work, which must be in accordance with the conditions of this approval;*
  - b) *Contact details of the site manager and all principal contractors;*
  - c) *Traffic management, which is to be developed in consultation with the Roads Authority and the Council if required and is to include:*
    - i. *identification of a work zone;*
    - ii. *ingress and egress of vehicles to the site from Manilla Road;*
    - iii. *management of loading and unloading of materials;*
    - iv. *number and frequency of vehicles accessing the site and construction vehicle routes;*
    - v. *the times vehicles are likely to be accessing the site;*
    - vi. *access arrangements and traffic control;*

- vii. *details on the temporary relocation of the bus stop;*
- viii. *changes to on-street parking restrictions on roads;*
- ix. *management of construction traffic and car parking demand including preparation and distribution of a Transport Access Guide; and*
- x. *management of existing vehicular and pedestrian movements/routes around the site throughout the various stages of construction;*

- d) *Erosion and sediment control, identifying appropriate measures to be installed during construction which shall be designed in accordance with the document Managing Urban Stormwater - Soils and Construction Volume 1 (2004) by Landcom;*
- e) *Construction noise and vibration management, identifying specific activities that will be carried out and associated noise sources, identify all potentially affected sensitive receivers, noise and vibration monitoring reporting and response procedures, description of specific mitigation treatments management measures and procedures to be implemented, and address any other relevant provisions of Australian Standard 2436;*
- f) *Construction waste management, identifying options for minimizing waste in construction, reuse and recycling of materials, the storage, control and removal of construction waste; and*
- g) *Dust control measures to be implemented to prevent the movement of airborne particles from the site throughout the construction process, and the tracking of material from the site by trucks and other vehicles. This is to include the appropriate use of physical barriers and the dampening of exposed excavated surfaces. The storage and stockpiling areas for material is also to be detailed.*

31) *An approval pursuant to Section 138 of the Roads Act 1993, must be obtained from Council to carry out all works and no stopping signage installation within the Road Reserve. Construction and design plans must be provided to Council for approval. The ongoing maintenance and/or repair of the vehicle crossing is the responsibility of the owner in accordance with section 142 of the Roads Act 1993.*

*Advisory Note: Transport for New South Wales (TfNSW) concurrence is required prior to issue of a Section 138 Approval for temporary construction access via Manilla Road*

32) *Pursuant to Section 68 of the Local Government Act 1993, the following works must be approved by Council in order to:*

- a) *Carry out water supply work;*
- b) *Carry out sewer work; and*
- c) *Carry out stormwater work.*

*Engineering design plans, reports and calculations for internal water, stormwater and sewer main realignment, shall be prepared in accordance with Council's current version of the Engineering Design Minimum Standards, and submitted to Council for approval. All plans are to include details of the location of all*

**existing utility services. All engineering drawings and the associated specifications are to be certified by a suitably qualified and experienced design practitioner.**

**Prior to Issue of a Subdivision Works Certificate**

33) **A stormwater servicing strategy for the development site shall be prepared and implemented in accordance with the requirements of the Engineering Design Minimum Standards for Stormwater Drainage. The stormwater servicing strategy for this development must also include detailed plans and calculations for the following:**

- a) **Conveyance of major flows through the existing open drain with adequate freeboard, and assessment of the requirement for on-site detention for flows generated by the critical storm durations and frequencies in the range from the 1:1-year ARI up to the 1:100-year ARI event, including recommendations for detention of flows generated by individual allotments discharging to the Bellas Way piped system;**
- b) **Developed flows leaving the site (detained and/or un-detained) and Q100 overland flow paths, including investigation and implementation of downstream pipework required to convey flows (generated by the upstream catchments contributing to the existing second order stream) through Lot 14 in DP 22919 with adequate freeboard; and**
- c) **Minor stormwater network.**

34) **Engineering design plans and construction reports, prepared in accordance with Council's current version of the Engineering Design Minimum Standards as required for stormwater infrastructure, sewer, and water main works, shall be provided to Council for approval prior to issue of a Subdivision Works Certificate. 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.**

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

**Notwithstanding the requirements of the Engineering Design Minimum Standards, items to be addressed shall include but not be limited to:**

- a) **Stormwater, and water infrastructure for the development;**
- b) **A Safety in Design Report;**
- c) **Certification being provided in accordance with Annexure A of Council's current version of the Engineering Design Minimum Standards; and**
- d) **An Inspection Test Plan (ITP) for the construction of Council infrastructure required for the development shall be submitted to Council for approval.**

**Advisory Note 1: All plans shall include details of the location of all existing utility services.**

35) **Pursuant to Section 306 of the Water Management Act 2000, Council (as the Local Water Supply Authority) requires the following design plans and**

**certification to be supplied prior to the issue of a Subdivision Works Certificate. Works required under Section 306 of the Water Management Act 2000 must be completed prior to the release of a Certificate of Compliance, including:**

**Water**

- a) **A water network analysis shall be undertaken to confirm that the proposed water supply will satisfy the requirements of Council's Engineering Design Minimum Standards;**
- b) **Council's water reticulation system shall be modified in accordance with Council's current version of the Engineering Design Minimum Standards. The existing DN100mm water supply main shall be realigned to ensure clearance from proposed structures and gifted to Council;**
- c) **Engineering design drawings for the realignment/extension of water supply shall be prepared in accordance with Council's Engineering Design Minimum Standards;**
- d) **A single water service with appropriate bulk metering and backflow prevention shall be provided to the lot from Council's existing water supply main on Mulconda Close. The size of water service shall be commensurate with the proposed development;**
- e) **Redundant water service(s) shall be removed and disconnected from the water main;**
- f) **The developer shall engage a hydraulic engineer to determine the fire fighting and domestic demands and determine an appropriate water service size for the development. If fire hydrants are required, they shall be above ground installations;**
- g) **A Management Statement shall be prepared for the Owner's Corporation, which incorporates the following requirements:**
  - i. **the Owner's Corporation of the property shall take full responsibility for operation and maintenance of all water service lines inboard of the property boundary in perpetuity. Such responsibility will start immediately downstream of the bulk water meter and backflow prevention equipment;**
  - ii. **individual services to the lots to be constructed in accordance with Council's requirements. Council will supply the water meters and dual check valves following payment of applicable charges per meter;**
  - iii. **Council will retain ownership of the standpipe fittings, namely the water meter, ball valve and dual check valve and will maintain same. This will allow Council to change or upgrade the water meter and associated fittings at its convenience. All other fittings will be the responsibility of the Owner's Corporation;**
  - iv. **Council will read water meters and invoice property owners accordingly;**
  - v. **Council will also read the bulk water meter and in the event of an internal water service malfunction the body corporate will be billed for any discrepancy until the internal water service is repaired;**

- vi. *the Owner's Corporation shall maintain an insurance policy to fully cover Council workers who enter the property to service or read individual meters; and*
- vii. *appropriate public liability insurance shall be maintained by the Owner's Corporation, including insurance against claims for damage etc. caused by the failure of the water main or fittings;*
- h) *Work shall be undertaken in accordance with Council's current version of its Engineering Design Minimum Standards;*
- i) *Works on live water mains to be undertaken by Council at full cost to the developer; and*
- j) *Easements shall be provided over council infrastructure located within private properties.*

#### **Sewer**

- k) *The proposed development shall be serviced by private sewer main connecting to Council's existing manhole located in the south-western corner of the lot. The developer is responsible for ensuring the development is adequately serviced by private sewer network connected to council's existing sewer;*
- l) *Private sewer main shall be designed and implemented in accordance with Council's Engineering Design Minimum Standards;*
- m) *Work shall be undertaken in accordance with Council's current version of Engineering Design Minimum Standards;*
- n) *Works on live Council sewer mains shall be undertaken by Council at full cost to the developer;*
- o) *The developer/Owner's Corporation of the property shall take full responsibility for the installation, operation and maintenance of all sewer lines servicing the individual lots;*
- p) *Sewer easements of appropriate width shall be provided over any Council sewer main within private property; and*
- q) *For sewer mains no more than 1.5 metres deep, Council's Policy for Sewer 'Excavating/Filling or Building Adjacent to or Over Existing Sewer Mains', requires that structures/footings (applicable to the proposed retaining wall) located within the Zone of Influence of Council's sewer main be designed and constructed to ensure the following:*
  - i. *The structure (including piling) is not to be constructed within 1.0 metre of Council's sewer main - measured horizontally from the centreline of the sewer;*
  - ii. *The structure will not suffer damage should the sewer trench subside or be re-excavated for maintenance; and*
  - iii. *The foundation design ensures no loading from the structure is transmitted to the main.*

*A certificate signed by a suitably experienced and qualified structural engineer that the design satisfies these conditions is required for approval*

**prior to the issue of a Construction Certificate.**

**(Note: For additional information please refer to Council's Policy for "Excavating/Filling or Building Adjacent to or Over Existing Sewer Mains")**

**36) 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.**

**Prior to the release of the Construction Certificate for EACH stage**

**37) An amended and detailed landscape plan shall be prepared and submitted to Tamworth Regional Council demonstrating an additional shade tree to be planted for each unit and additional details (planting and structures) for the green space/community area adjoining the pedestrian linkage to Manilla Road.**

**The plan must also include fencing and gate details at the Mulconda Close entrance and Manilla Road pedestrian entrance, confirming there will be restricted access only to residents.**

**38) A detailed geotechnical site investigation is required, prepared by a qualified consultant Engineer, which shall be submitted with the Engineering drawings to ensure the site is suitable for development and that adequate measures are in place to guarantee the stability of the site. The report shall fully assess the suitability of the site for the development proposed. All recommendations of the investigation shall be incorporated into the Engineering Drawings.**

**39) A written acknowledgement must be received from Council's Development Engineering Division confirming all infrastructure works required for stormwater and proposed water realignment have been completed in accordance with Council's Engineering Design Minimum Standards.**

**40) The developer shall produce written evidence that an agreement can be put in place with Council's Water and Waste Directorate or a waste collection contractor for the collection of rubbish bins from private property prior to issue of any Construction Certificate.**

**41) 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.**

**42) Prior to the issuance of a Construction Certificate for Unit 5, the Registered Certifier is to be satisfied that the Structural Engineering design of the footings has taken into consideration the location of the bearing capacity of the foundation material and the proximity of the unit to the adjacent drainage easement.**

**Prior to the issue of a Construction Certificate for Stage 1**

**Water and Sewer Headworks**

**43) Pursuant to Section 306 of the Water Management Act 2000, Council (as the Local Water Supply Authority) requires the following contributions to be paid**

**prior to the release of a Construction Certificate:**

**Headworks**

<b>Charges</b>	<b>Water Headworks</b>	<b>Sewer Headworks</b>
<b>Stage 1</b>	<b>\$6,552.00</b>	<b>\$3,478.00</b>

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

**Note:** A development contribution invoice may be requested by emailing [Development@tamworth.nsw.gov.au](mailto:Development@tamworth.nsw.gov.au)

44) a) In accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 and the Tamworth Regional Council Section 7.11 (formerly known as S94 (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 (\$)</b>
<b>Roads</b>	<b>\$1,983.00</b>
<b>Car Parking</b>	<b>\$ 0.00</b>
<b>Open Space and Recreation</b>	<b>\$ 766.00</b>
<b>Plan Preparation and Administration</b>	<b>\$ 67.00</b>
<b>TOTAL</b>	<b>\$2,816.00</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:

$$\begin{array}{rcl} \$CPY & = & \$CDC \times \\ & & \hline & & CPIPY \\ & & \hline & & CPIDC \end{array}$$

**Where:**

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

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

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

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

c) The monetary contributions shall be paid to Council Prior to the issue of the Construction Certificate where the development is for building work:

*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.*

*Council's 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.*

#### **Prior to the issue of a Construction Certificate for Stage 2**

##### **Water and Sewer Headworks**

45) Pursuant to Section 306 of the Water Management Act 2000, Council (as the Local Water Supply Authority) requires the following contributions to be paid prior to the release of a Construction Certificate:

##### **Headworks**

<b>Charges</b>	<b>Water Headworks</b>	<b>Sewer Headworks</b>
<b>Stage 2</b>	<b>\$14,976.00</b>	<b>\$6,956.00</b>

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

*Note: A development contribution invoice may be requested by emailing [Development@tamworth.nsw.gov.au](mailto:Development@tamworth.nsw.gov.au)*

##### **Developer Contributions**

46) a) In accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 and the Tamworth Regional Council Section 7.11 (formerly known as S94 (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 (\$)</b>
<b>Roads</b>	<b>\$ 5,220.00</b>

<b>Car Parking</b>	\$ 0.00
<b>Open Space and Recreation</b>	\$ 1,816.00
<b>Plan Preparation and Administration</b>	\$ 160.00
<b>TOTAL</b>	<b>\$ 7,196.00</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:*

$$\begin{array}{rcl} \$CPY & = & \$CDC \times \\ & & CPIPY \\ \hline & & CPIDC \end{array}$$

Where:

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

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

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

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

c) *The monetary contributions shall be paid to Council Prior to the issue of the Construction Certificate where the development is for building work.*

*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.*

*Council's 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.*

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#### **Prior to the issue of a Construction Certificate for Stage 3**

##### **Water and Sewer Headworks**

47) *Pursuant to Section 306 of the Water Management Act 2000, Council (as the Local Water Supply Authority) requires the following contributions to be paid prior to the release of a Construction Certificate:*

##### **Headworks**

Charges	Water Headworks	Sewer Headworks
Stage 3	\$14,976.00	\$6,956.00

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

**Note:** A development contribution invoice may be requested by emailing [Development@tamworth.nsw.gov.au](mailto:Development@tamworth.nsw.gov.au)

#### Developer Contributions

48) a) In accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 and the Tamworth Regional Council Section 7.11 (formerly known as S94 (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:

Description	Contribution (\$)
Roads	\$ 5,220.00
Car Parking	\$ 0.00
Open Space and Recreation	\$ 1,816.00
Plan Preparation and Administration	\$ 160.00
<b>TOTAL</b>	<b>\$ 7,196.00</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:

$$\begin{array}{rcl} \$CPY & = & \$CDC \times \\ & & CPIPY \\ & & \hline & & CPIDC \end{array}$$

Where:

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

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

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

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

a) *The monetary contributions shall be paid to Council Prior to the issue of the Construction Certificate where the development is for building work.*

*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.*

*Council's 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.*

#### ***During construction of work for all stages***

49) *All building works shall be constructed in accordance with safe work practices and complying with the relevant Australian Standards, Codes of Practice and the National Construction Code (NCC).*

#### ***Inspections***

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

51) *Inspections are required to be carried out by Council for works as specified below:*

a) *New stormwater infrastructure to be constructed on Lot 14 in DP 22919; and*  
b) *Water realignment works.*

*Please note that Council's Development Engineering Division requires a minimum of 48 hours' notice for inspections.*

52) *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 to an acceptable standard.*

#### ***Demolition***

53) *Demolition must occur within the provisions of AS2601-2001 "the demolition of structures".*

54) *Demolition must occur with suitable best practice methods used to suppress dust and noise nuisance to nearby residential receptors.*

55) *All services (including water, sewer, electricity and gas) must be effectively discontinued by appropriately qualified tradespersons.*

56) *Any material not reclaimed for recycling must be disposed of to a licensed*

*landfill facility and documentation retained to demonstrate the disposal location.*

- 57) *Demolition works are restricted to Monday to Friday between the hours of 7.00am to 6.00pm and Saturdays 8.00am to 1.00pm. No demolition works are to be undertaken on Sundays or Public Holidays.*
- 58) *A portable toilet with appropriate washing facilities will be required on site prior to commencement of demolition.*
- 59) *The applicant shall have an occupational hygienist or suitably qualified professional inspect the area marked for demolition and confirm the presence or absence of asbestos prior to demolition.*  
*(If asbestos is confirmed)*
- 60) *Demolition works involving the removal and disposal of asbestos containing material (ACM) must only be undertaken by contractors who hold an asbestos removal licence and a demolition licence.*
- 61) *The demolition site must have a standard commercially manufactured sign containing the words “DANGER ASBESTOS REMOVAL IN PROGRESS” measuring not less than 400mm x 300mm and is to be erected in a prominent visible position on the worksite. The sign must be erected before demolition works commence and must remain in place until such time that all ACM has been removed from the site to an approved waste facility.*
- 62) *All asbestos laden waste must be disposed of at a landfill licensed by the NSW Environment Protection Authority (EPA). All disposal receipts must be maintained as evidence of proper disposal.*
- 63) *An asbestos clearance certificate must be provided to Council by an occupational hygienist or suitably qualified consultant declaring the site to be free from all asbestos upon completion of demolition.*
- 64) *If any unexpected contamination is discovered during demolition or construction works, the appropriate actions shall be taken in accordance with SEPP (Resilience & Hazards) 2021, work health and safety and environmental protocols to address any issues relating to human health and environmental protection. Council’s Environmental Health Section must be notified and all work in the area of discovery is to be immediately ceased until clearance is obtained from Council.*
- 65) *If the work involved in the erection or demolition of a building 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, a hoarding or fence must be erected between the work site and the public place. If the hoarding or fencing is to be placed on or over Council land, the written approval of Council is to be obtained.*
- 66) *The applicant must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:*
  - a) *an approval has been issued by Council to place the waste storage container in a public place; and*
  - b) *where located on the road, it is located only in a position where a vehicle may lawfully park in accordance with the Australian Road Rules to the extent they are adopted under the Road Transport (Safety and Traffic*

**Management) (Road Rules) Regulation 1999.**

- 67) *Due to the proximity of the subject structure to the property boundary, an identification survey is to be prepared by a Registered Surveyor during construction works for the subject development.*
- 68) *To the extent that this consent permits filling of the site such fill must be virgin excavated natural material ("VENM").*  
*VENM includes clay, gravel, sand, soil and rock that is not mixed with any other type of waste and which has been excavated from areas of land that are not contaminated with human-made chemicals as a result of industrial, commercial, mining or agricultural activities and which do not contain sulphidic ores or soils.*
- 69) *Erosion and sediment control measures in accordance with the ESCP are to be maintained by the developer at all times.*
- 70) *Any damage caused to Council infrastructure shall be rectified by the Developer to the satisfaction of the Council so as to ensure the integrity of Council's infrastructure.*
- 71) *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.*
- 72) *The Developer shall ensure that dust suppression is undertaken to ensure there is no visible dust emitted due to any works associated with the works associated with the development. This can be in the form of constant water spraying or other natural based proprietary dust suppressant, to ensure that dust caused by any vehicles moving in, out or within the development site does not cause a nuisance to surrounding properties.*

**Prior to the release of the Occupation Certificate for EACH stage**

- 73) *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.*
- 74) *A suitable vehicle safety barrier or bollards are to be installed on each side of the driveway where it adjoins the stormwater drainage channel. These safety measures are to be installed prior to the issuance of an Occupation Certificate for dwelling 6.*
- 75) *The proposal is to be carried out in accordance with the General Terms of Approval issued by the Transport for New South Wales, reference NTH24/00456/003 dated 4 September 2024, copy and contained in Annexure A of this consent.*
- 76) *Prior to the provision of any Occupation Certificate for works associated with the applicable stage of the development, the subdivision of Lot 11 in DP 231449 must occur and any works and associated easements required pursuant to a condition of the subject development consent shall be completed. Evidence shall be submitted to the Principal Certifying Authority to confirm that the community title subdivision of Lot 11 in DP 231449 has been registered by NSW Land*

*Registry Services. In this regard:*

*Easements for utilities and services, including stormwater, water, 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.*

- 77) *To ensure the ongoing use of units 1 and 11 as 'affordable housing units', prior to the issue of the Occupation Certificate for each dwelling evidence of registration with a community housing provider is to be provided to Council.*
- 78) *Prior to the issue of an occupation certificate for the relevant unit/s, the applicant must cause a restriction to be registered against the title of the site on which the development is carried out, in accordance with Section 88E of the Conveyancing Act 1919, requiring:*
  - a) *The relevant unit/s as required by this consent is to be used for the purposes of affordable housing as defined by the EP&A Act for a minimum of 15 years from the date of issue of the occupation certificate;*
  - b) *Specifically nominating the relevant units to be allocated as affordable housing; and*
  - c) *Management of the affordable housing units by a registered community housing provider.*
- 79) *The no-stopping signage in Mulconda Close as endorsed by this consent must be installed prior to the first Occupation Certificate.*

***Prior to the issue of a Subdivision Certificate for EACH stage***

- 80) *Prior to the issue of a Subdivision certificate for each Stage an occupation certificate must be issued for all buildings that are constructed in the relevant Stage.*
- 81) *A Certificate of Compliance under Section 307 of the Water Management Act 2000 shall be obtained from Council (as the Local Water Supply Authority) prior to the provision of a Subdivision Certificate. All payments and works required under Section 306 of the Water Management Act 2000 must be received and completed prior to the release of a Certificate of Compliance.*
- 82) *Prior to the issue of a subdivision certificate, the Community Management Plan must be submitted to and approved by Council to ensure that the management of the subdivision is consistent with the development consent.*
- 83) *Certification being provided that each lot is serviced with electricity in accordance with recognised standards and community expectations.*
- 84) *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.*
- 85) *Easements for utilities and services, in particular sewer, water, and stormwater, in favour of the lot(s) benefiting and/or Council shall be provided where services are located on private properties and/or overland flows traverse private property.*
- 86) *A Maintenance Bond in accordance with the current version of Council's Engineering Design Minimum Standards shall be paid to Council for all infrastructure works.*

87) One set of approved construction drawings shall be amended to show the “Work-as-Executed” and be certified by a Registered Surveyor or a Chartered Professional Civil Engineer, in accordance with Council’s Engineering Design Minimum Standards.

A scanned electronic ‘PDF version and an AutoCAD ‘dwg’ version of the signed “Work-as-Executed” plans shall be submitted to Council to ensure that adequate records are maintained of community infrastructure.

88) All test results, material certificates, non-conformance reports and signed off Hold/Witness Points as required by the Inspection and Test Plan (ITP) shall be submitted for the review of Council to verify the quality of the completed product.

89) To confirm and clarify the terms of Council’s approval, a Subdivision Certificate may not be issued until:

- the development, at each stage, is completed in accordance with Development Application No. DA2024-0287; and
- the Community Management Statement for the development provides that development of the lot may only be carried out in accordance with Development Application No. DA2024-0287.

#### **Ongoing Use**

90) The sealing and marking of crossovers and all vehicular parking, manoeuvring and loading areas, and landscaped areas on the site are to be maintained at all times.

91) All vehicle movements into and out of the development site shall be in a forward direction.

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

*Annexure A: General Terms of Approval issued by the Transport for New South Wales, reference NTH24/00456/003 dated 4 September 2024.*

#### **APPLICATION DETAILS:**

Application No.	DA2024-0287 (PAN-412980)
Application For:	Demolition of existing dwelling house and outbuildings, Construction in Stages of 11 dwellings and Community Title Subdivision
Date Received:	19 February 2024
Applicant:	Bath Stewart Associates Pty Ltd
Owner:	Nishade Holding Pty Ltd and BJH Consolidated Pty Ltd
Land/Address:	Lot 11 DP 231449, 15 Manilla Road, Oxley Vale and

	Lots 14 and 15 DP 22919, 11-17 and 19-29 Curlew Crescent, Oxley Vale
Zoning:	R1 General Residential - <i>Tamworth Regional Local Environmental Plan 2010</i>

## DEVELOPMENT ASSESSMENT SUMMARY

The proposed development involves the demolition of the existing dwelling on lot 11, and the subsequent staged construction and community title subdivision of these dwellings. The development proposes to include two affordable housing units in the first two stages of the development. The development will include earthworks, stormwater drainage, the provision of services, landscaping, visitor carparking and communal facilities.

Stormwater drainage works (including the creation of an easement) are proposed on lots 14 and 15 to facilitate stormwater overland flow paths and infrastructure to service the proposed community title subdivision and upstream catchment.

The proposal is a permissible use within the R1 General Residential zone in accordance with the *Tamworth Regional Local Environmental Plan 2010* (TRLEP) and meets the zone objectives. The proposed development will be compliant with the relevant NSW planning legislation; State Environmental Planning Policies, the TRLEP and Tamworth Regional Development Control Plan 2010 (DCP).

The key issues that relate to this application are as follows:

- Traffic and Access
- Stormwater Management

The above issues and many others raised during the course of the assessment of this proposal are addressed throughout this report.

The proposed development supports Council's vision to facilitate growth and housing choice. The proposal aligns with priorities and actions in the New England North West Regional Plan 2041 and Tamworth Regional Council's Blueprint 100. Given the existing housing shortage, it is also recommended that Council reduce the consent lapsing period to two years rather than the standard five years, ensuring this development is acted upon and new housing is delivered as soon as possible.

### **Reason for Referral to Council**

DA2024-0058 has been referred to Council for determination due to the number of submissions that were received during the public consultation period. A total of four submissions plus a petition containing 52 signatures, were received, see **ENCLOSED**, refer to **CONFIDENTIAL ENCLOSURE 1**. The issues raised in the submissions have been addressed in this assessment report.

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### **DESCRIPTION OF PROPOSAL:**

The application seeks approval for the demolition of the existing single storey dwelling on lot 11, the subsequent construction of 11 dwellings and the community title subdivision. The construction and subdivision of the units is to occur in three stages. The development will

include earthworks, stormwater drainage, the provision of services, landscaping and communal facilities.

Specifically, the development will comprise:

- Demolition of existing dwelling and associated structures;
- Eight 4-bedroom detached dwellings, each with two garaged car spaces;
- Three 3-bedroom attached dwellings, each with two garaged car spaces;
- The inclusion of three adaptable units and two affordable housing units;
- Creation of 3226m<sup>2</sup> of Community Land in a Community Title Subdivision (driveways, accessways, open space, bbq, drainage channel, nine visitor car spaces, mailbox and entrance gates);
- Creation of a drainage easement across land to the west to facilitate stormwater overland flow paths and infrastructure to service the proposed community title subdivision and upstream catchment;
- Two public car parking spaces in Mulconda Close; and
- No stopping signs to be installed in the narrow “pinch point” section of Mulconda Close.

The characteristics of the proposed dwellings and lots is as follows:

Unit	Lot	Internal Area m <sup>2</sup>	Bedrooms	Open space m <sup>2</sup>	Lot area m <sup>2</sup>
1	2	199	4	60	309.2
2	8	199	4	60	357.5
3	9	178	3	60	291.0
4	10	178	3	60	322.2
5	12	179	3	78	309.5
6	13	218	4	60	501.7
7	15	199	4	60	332.5
8	16	199	4	65	317.5
9	6	199	4	56	345.5
10	5	199	4	75	640.3
11	3	199	4	60	351.2
N/A	1 Community	N/A	N/A	N/A	3540m <sup>2</sup>

All dwellings have two allocated undercover car parking spaces provided. Vehicle access is proposed to be provided from Mulconda Close, with access denied from Manilla Road (pedestrian access only).

The proposed development is to be carried out in three stages. See Figure 1 below. The stages are to be carried out consecutively, generally in the following manner:

- Stage 1: Units 9, 10 and 11 (including one Affordable Unit), driveway, visitor parking and bbq area (green) and stormwater infrastructure works;
- Stage 2: Units 1-4 (including one Affordable Unit) and driveway (purple); and
- Stage 3: Units 5-8 and driveway (orange);

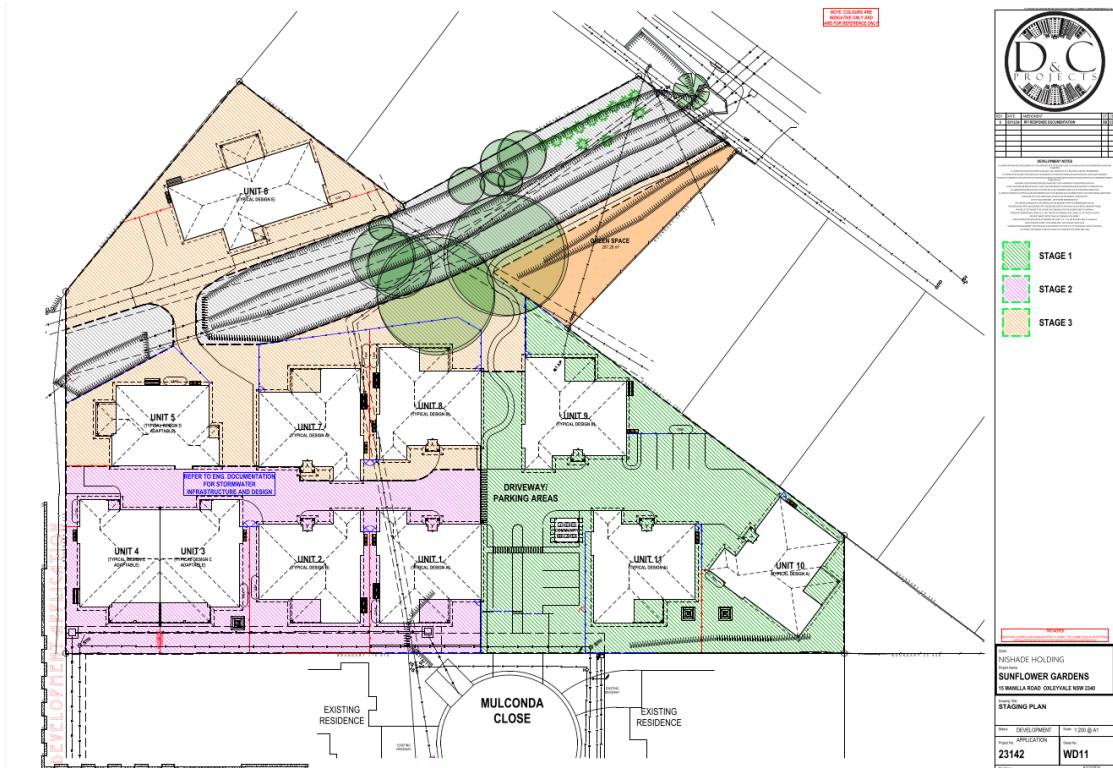


Figure 1-Staging Plan

Civil works will likely occur across multiple stages at one time. The cost of development is \$5.69 million.

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

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

The subject land is known as Lot 11 DP 231449, 15 Manilla Road Oxley Vale (see Figure 2). The land has an area of some 7410m<sup>2</sup> and has an irregular shape. The land has frontage to Manilla Road and Mulconda Close (at the cul-de-sac head). The site is zoned R1 General Residential pursuant to the TRLEP.

The site is surrounded by residential development with the exception of a new and used heavy vehicle spare parts business to the west (19-29 Curlew Crescent). This site is listed on the EPA *List of Notified Sites*, meaning that the land has been notified to the EPA as being potentially contaminated. The site is not regulated under the Contaminated Land Management Act 1997 (CLM Act).

A Preliminary Site Investigation undertaken as a part of this assessment identified no area or material of concern on the subject site.



*Figure 2- Site Location*

The site is located within an established residential area characterised by low-density, predominantly single storey dwellings. The site is currently occupied by a single storey dwelling house, associated sheds and landscaping. The site currently has vehicular access to Manilla Road and Mulconda Close.

Adjoining the site to the west, being Lot 14 in DP22919, is land currently utilised by the small business Phil Hunt Parts. Phil Hunt Parts deals in spare parts for various makes and types of heavy machinery. This land is a part of the subject development application for the purpose of providing an easement of appropriate width to facilitate stormwater overland flow paths and infrastructure to service the proposed community title subdivision and upstream catchment.

An existing easement for drainage (6m wide) traverses through lot 11 in an east-west direction. An easement for water supply (1.5m wide) also burdens the site, running from east to south. The subject land slopes to the south-west with a change in ground level of approximately 6m.

#### **REFERRALS:**

The development was referred externally to the following agencies:

- NSW Police (Oxley Area Command); and
- Transport for NSW.

The development was referred internally to the following Council specialists:

- Building Certification Team;

- Environmental Health Officer;
- Development Engineering Division; and
- Water and Waste Directorate.

Comments and development requirements from each referral agency/specialist are addressed throughout this report.

#### **ASSESSMENT REPORT:**

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

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

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

###### ***State Environmental Planning Policy (Resilience and Hazards) 2021 (R&H SEPP):***

###### ***Chapter 4 – Remediation of Land***

Chapter Four of the R&H SEPP applies to the site pursuant to clause 4.4 and aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Clause 4.6 requires that consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated or requires remediation for the proposed use to be carried out.

A search of Council's records and aerial photos indicates the site has historically been used for residential purposes.

A detailed environmental site investigation was provided by the applicant to identify any historic contamination on the subject site. The preliminary site investigation identified no area or material of concern on the subject site. All analytical results for the soil sampled were below Health Investigation Levels for Residential A land use. The site condition and past and current site activities described in the report indicated a low potential for contamination. Based on this investigation the site is considered suitable for the proposed residential development as no contamination constraint was identified.

The development involves demolition of existing structures onsite. In order to minimise the risk of contamination a condition has been imposed requiring the demolition to be carried out in accordance with Australian Standard AS2601 - 2001: *The Demolition of Structures* and the requirements of Safe Work NSW.

As such, the site is considered suitable for residential development. Conditions are also included in the recommendation regarding potential contamination discovery should contamination be identified during demolition and/or construction works.

###### ***State Environmental Planning Policy (Transport and Infrastructure) 2021 (T&I SEPP):***

Chapter Two, section 2.119 of the T&I SEPP specifies requirements which apply to development fronting a classified road. Manilla Road (MR63) is a classified road, as such section 2.119 applies to the development. The clause requires that the consent authority is satisfied that:

- vehicular access is provided by a road other than the classified road;
- measures will be taken to ameliorate traffic noise or vehicle emissions; and

- the safety, efficiency, and ongoing operations of the classified road will not be adversely affected by the development.

The application was referred to Transport for NSW (TfNSW) seeking concurrence in accordance with Section 138 of the *Roads Act 1993*. Concurrence was granted and conditions of consent have been imposed to enforce TfNSW requirements.

In pre-lodgement discussion with the applicant TfNSW advised that access to the site should be provided by a road other than the classified road.

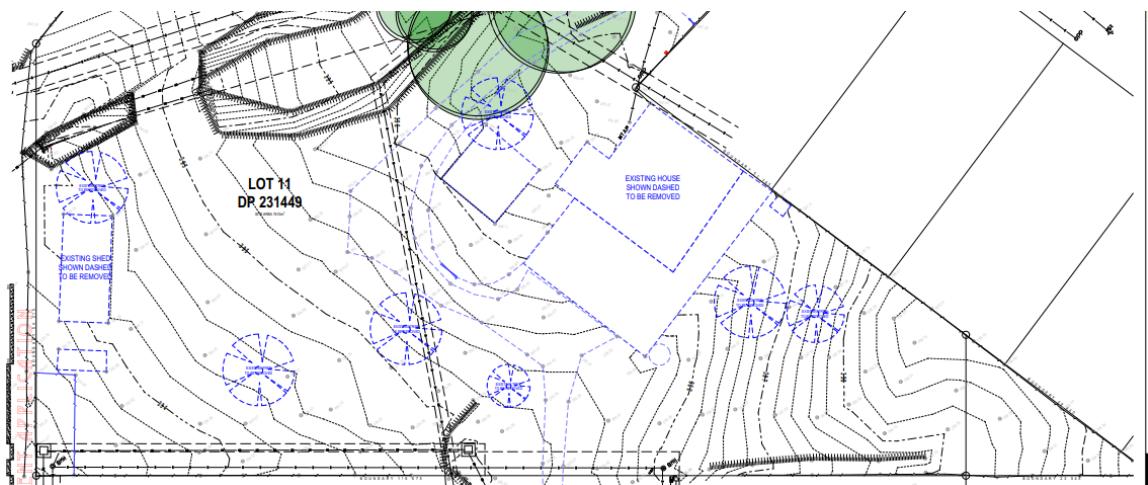
The development application is accompanied by a Traffic Report which has considered traffic generation, access, and parking. Both TfNSW and Council's traffic engineers have reviewed the DA documentation and raised no objections to the proposal, subject to conditions.

*State Environmental Planning Policy (Biodiversity and Conservation) 2021 (B&C SEPP):*

*Chapter 4: Vegetation in non-rural areas*

Chapter Two of the B&C SEPP applies to the development pursuant to clause 2.3 and aims to protect the biodiversity and amenity values of trees within non-rural areas of the state. Part 2.3 has been considered and as development consent is being sought for the removal of minimal vegetation under this development, no further consideration of Chapter Two is required.

Seven existing trees are proposed to be removed to facilitate the development. These trees are predominantly exotic species.



*Figure 3 - Trees to be removed*

The proposal includes the planting of numerous trees and large shrubs that will offset the proposed tree removal. Furthermore, the submitted Landscape Plan includes a number of smaller plants and shrubs. A condition of consent is proposed that will require a detailed landscape plan to be prepared that demonstrates the planting of eleven additional native shade trees, i.e., one for each dwelling.

*State Environmental Planning Policy (Sustainable Buildings) 2021 (SB SEPP):*

The SB SEPP applies to the development pursuant to Chapter Two and aims to encourage the design and delivery of sustainable buildings. The SB SEPP commenced on 1 October 2023 and repealed State Environmental Planning Policy (Building Sustainability Index: BASIX 2004).

Basix development is defined in the Environmental Planning and Assessment Regulation 2021 to mean:

*BASIX development means the following development if it is not BASIX excluded development—*

- (a) development that involves the erection, but not the relocation, of a BASIX building,*
- (b) development that involves a change of building use by which a building becomes a BASIX building,*
- (c) development that involves the alteration of a BASIX building, if the estimated development cost is \$50,000 or more,*
- (d) development for the purposes of a swimming pool or spa, or combination of swimming pools and spas, that—*
  - (i) services 1 dwelling only, and*
  - (ii) has a capacity, or combined capacity, of 40,000 litres or more.*

Section 2.1 (5) of the SB SEPP provides that development consent must not be granted to development to which the standards specified in Schedule 1 or 2 apply unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.

A Basix certificate for the multi-dwelling housing development was provided with the application demonstrating that the proposed development will meet the NSW Government requirements for sustainability.

#### State Environmental Planning Policy (Housing) 2021

The Housing SEPP applies to the development pursuant to Chapter 2 and aims to enable the development of diverse housing types, encourage housing that meets the needs of more vulnerable members of community and ensures new housing provides residents with a reasonable level of amenity.

The objective of Chapter 2 Division 1 *In-fill affordable housing* is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate-income households.

The affordable housing component of a development means the percentage of the gross floor area used for affordable housing. In-fill affordable housing includes residential development if the affordable housing component is at least 10% and the development is carried out on land within 800m walking distance of land in a Local Centre, Mixed Use, Neighbourhood Centre, Local Centre or Mixed Use zone.

As the development is not within 800m of land (the nearest Mixed Use zoned land is in excess of 1.2km away) in one of these zones it is not considered to be affordable housing for the purposes of the Housing SEPP 2021. The provisions of the SEPP therefore do not apply.

#### **Local Environmental Plan**

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

The proposed development is consistent with the Aims of the TRLEP. Specifically, it accords with aim b) as follows:

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

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

The objectives of the R1 General Residential zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

It is considered that the proposed development is consistent with each of the objectives of the R1 zone. The construction and subdivision of the proposed multi dwelling housing development will contribute to the housing needs of the community and contribute to the variety of housing types and densities available in the locality. The provision of two units within the development as 'affordable housing' is a positive amendment to the development as it will assist in delivering housing to the community across a range of incomes.

The proposed development is defined in the TRLEP to be *multi dwelling housing*:

**multi dwelling housing** means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

This form of residential development is permissible with consent in the R1 General Residential zone.

Community title subdivision is also permissible in the R1 zone pursuant to the provisions of Clause 2.6 of the TRLEP. The TRLEP does not specify a minimum lot size for a lot created under the Community Land Development Act 2021.

The following is a summary of the evaluation of the development pursuant to the provisions of the relevant clauses of the TRLEP 2010.

**Table 1 - Assessment against LEP provisions.**

Clause	Comment
Clause 2.7 – Demolition requires consent	The demolition of a building may be carried out only with development consent pursuant to this clause. The proposal seeks consent for the demolition of the existing dwelling and associated structures.
Clause 4.1 - Minimum lot size	The lot size map specifies that the minimum lot size to result from the subdivision of land in this zone is 600m <sup>2</sup> . This clause however does not apply to subdivision under the Community Land Development Act 2021. Proposed lot sizes are in the order of 291m <sup>2</sup> -640m <sup>2</sup> .
Clause 4.1AA Minimum subdivision lot size for community title schemes	While this clause is relevant to community title subdivision, it does not apply to land zoned R1 General residential.

Clause 5.10 – Heritage conservation	<p>The objectives of this clause are to conserve the environmental heritage of the Tamworth Regional Council area; to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views; to conserve archaeological sites, and to conserve Aboriginal objects and Aboriginal places of heritage significance.</p> <p>The subject land is not identified as a heritage item nor is it located within a heritage conservation area.</p> <p>An AHIMS search conducted for the site revealed no Aboriginal site or places in or near the subject lot.</p>
Clause 5.21 Flood planning	<p>The subject land is not prone to riverine flooding.</p>
Clause 7.1 Earthworks	<p>One of the objectives of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p> <p>All works required for servicing the development including footings, driveways, retaining walls, carparks and utilities will be required to be carried out in accordance with Development Consent conditions which will include a requirement to comply with Council's Minimum Standards for Developments and Subdivision. Given the infill nature of this development, it will be important that excavation works, drilling or demolition activity does not impact on the structural integrity of surrounding buildings.</p> <p>A condition relating to a sediment and erosion control plan being required prior to commencement of works will also be included to ensure proper site management and avoidance of soil runoff entering into the existing stormwater system.</p>

New England North West Regional Plan 2041 (NENW Plan)

The NENW Plan, prepared by the NSW Department of Planning and Environment (now Department of Planning, Housing and Infrastructure) sets out a 20-year strategic land use planning framework for the region, aiming to protect and enhance the region's assets and plan for a sustainable future.

Part 4 of the NENW Plan – Housing and Place, specifies two objectives that are particularly relevant to this proposal: Objective 13 - *Provide well located housing options to meet demand* and Objective 14 - *Provide more affordable and low-cost housing*.

The proposed development can provide the option of lower cost and lower maintenance lifestyles to provide options for households of various sizes. Infill development of this kind will take advantage of existing infrastructure and services.

Tamworth Regional Council Blueprint 100 – Part 1 and Part 2 (Local Strategic Planning Statement)

Blueprint 100 Parts 1 and 2 is a strategic plan prepared by Tamworth Regional Council and adopted on 26 May 2020. One of the priority themes is to facilitate smart growth and housing choices. The development reflects the intent of this plan through proposing dwellings of various size on smaller lots in an infill context.

The proposed development also includes three adaptable houses and two affordable houses.

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

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

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

Tamworth Regional Development Control Plan 2010:

An assessment against the relevant provisions under the 'Residential' (Multi-Dwelling), 'Environmental' and 'Subdivision' Chapters in the Tamworth Regional Council Development Control Plan 2010 (DCP) is presented in **Table 1**, **Table 2** and **Table 3**:

**Table 2** -Assessment against Residential (Multi-dwelling) DCP provisions

<b>Residential (Multi-dwelling) Controls</b>	
<b>Provision</b>	<b>Comment</b>
Building setback	For single storey development front setbacks are required to be 4.5m and 5.5m to the garage. Side and rear setbacks are 1m with a concession of 675mm for roof eaves, downpipes etc. The development complies with these provisions. Individual dwellings with the development are not required to comply with these controls in regard to their lot boundaries.
Density	The DCP requires a minimum site area of 300m <sup>2</sup> per dwelling. This development seeks a density of one (1) dwelling per 673m <sup>2</sup> , with lot sizes ranging between 291m <sup>2</sup> (Lot 3) and 640m <sup>2</sup> . Given that the development achieves general compliance with all other development controls and that Council will have an opportunity to review a detailed landscape plan prior to commencement of works, this 9.7% variation is considered acceptable.
Design	The proposed dwellings will be constructed of brick veneer with colorbond roofing, with conventional hipped roofs and attached garages. The development complies with the relevant provisions.
Utilities	All utilities and services are available to the site for use at full cost to the proponent. It is a condition of consent that the developer is responsible to consult with essential energy, natural gas and telecommunications carriers regarding the provision of services.
Building Height	Topmost ceiling heights are to be 2.7m with a maximum of 6.255m to the top of the ridge. All of the proposed dwellings comply.

Site coverage	The maximum site coverage is not to exceed 75% (including all hardstand areas). The development has an approximate site coverage of 48% which complies with this provision.
Privacy	The dwellings are sited to ensure that the privacy of residents is maximised. Rear open space areas are screened from public and communal areas. The development complies with this provision.
Solar access	<p>All dwellings (excepting units 2 and 4) have private open space areas with north or east facing orientation to maximise solar access. These areas immediately adjoin the internal living areas.</p> <p>Units 2 and 4 have private open space areas with immediate access to living areas and have areas in the rear yard suitable for clothes drying and receive suitable solar access.</p> <p>Habitable rooms within all dwellings are able to receive four hours of sunlight between 9.00am – 3.00pm on 21 June.</p> <p>Solar access is adequate to all units.</p>
Construction waste	The application is accompanied by a Resource and Waste Management Plan (RWMP). The RWMP must consider reuse or disposal of existing site waste materials (including demolition materials, earthworks) and construction waste materials.
Ongoing waste management	A refuse and recycling area is provided near to the site entrance with waste to be collected by a private waste collection service. Swept paths have been provided for a service vehicle (8.8m). The agreement between the developer and private waste collection provider must stipulate the maximum sized service vehicle. This will be included in the conditions of consent. No waste collection will occur kerb side.
Parking	<p>The development overall requires 22 resident spaces and six visitor spaces. 22 garaged car parking spaces are proposed, along with nine on-site visitor spaces (three more than required). The three additional spaces were requested to be integrated into the development as one of the mitigation measures for off-setting the no parking limitations imposed on the street. The visitor spaces are located at the entrance to the development and adjacent to units 6 and 9.</p> <p>Mulconda Close is a local street with a pavement width of 10 metres for the majority of its length. North of Bellas Way it becomes a cul-de-sac and has a short length (22 metres) of narrower carriageway (six metres wide) before widening to accommodate the turn head. At this 'pinch point' the passing of vehicles is impeded where another car is parked kerbside. "No-Stopping" signs are proposed in this location to facilitate safe and efficient passing.</p> <p>The applicant has proposed two on-street parking spaces adjacent to the driveway entrance to the development to compensate for the loss of on-street parking opportunities due to the placement of the 'No-Stopping' signs in the narrow section of roadway in Mulconda Close.</p>

Access	<p>Access arrangements are proposed via Mulconda Close. Vehicles are able to enter and exit the site in a forward direction. A 7.5m wide driveway crossing is proposed from the cul-de-sac head of Mulconda Close into the development site.</p> <p>Access to the site from Manilla Road was discussed with TfNSW before lodgement and during assessment of the application. TfNSW indicated to the applicant a preference for access to be from a street other than Manilla Road, but were content with construction vehicles having access from Manilla Road to minimise impacts on local road users and residents.</p> <p>Pedestrian access is proposed via a pathway through the site to Manilla Road.</p> <p>A Traffic Impact Assessment was submitted with the application. Traffic impacts are discussed in more detail later in this report.</p>
Private open space	Private open space must have a minimum dimension of four metres and a minimum area of 35-60m <sup>2</sup> depending upon its orientation and be directly accessible from a living area. All proposed dwellings comply with this requirement.
Landscaping	<p>There are seven existing trees on the subject land that are to be removed for the development. Ten significant specimens are to be retained.</p> <p>Landscaping is to be provided on the basis of 100m<sup>2</sup> per dwelling and have a minimum width of 2m. The landscaping proposed on the site complies with this requirement.</p> <p>The Landscaping plan proposes the planting of 14 Magnolia Grandiflora (4-6m mature height) and 28 Small-Leaf Lilly Pilly (6-8m mature height)</p> <p>A condition of consent has been imposed which requires that an amended detailed landscape plan be submitted for each stage of the development prior to the issue of the Construction Certificate. This plan is required to indicate an additional shade tree planting for each dwelling within the development.</p>
Outdoor lighting	Australian Standard minimum requirements are to be met.
Adaptability	Three adaptable units are proposed. The development complies with this requirement.
Facilities	The development provides suitable screened garbage storage areas, letterbox facilities and clothes drying areas. These facilities are provided and suitably located within the development site.
Storage	A minimum of 5m <sup>3</sup> of storage is required per dwelling. The development complies with this requirement, providing designated storage areas in each garage.

Water tanks	Tanks are to be provided behind dwellings. All proposed water tanks are appropriately located.
Site levels and retaining walls	The proposed retaining walls will be constructed of engineered blockwork, with heights ranging between <600mm - 2.1m (predominantly along the north- eastern boundary of the site).
Soil and Erosion control	Conditions of consent have been imposed to ensure that soil and erosion control on the site during construction is suitably managed to safeguard the environmental integrity of the site.

**Table 3 - Assessment against DCP Environmental Controls**

<b>Environmental Controls</b>	
<b>Provision</b>	<b>Comment</b>
Environmental Effects	No minimum front setbacks are specified within the TRDCP 2010 for multi dwelling housing within a community title subdivision.
Soil and Erosion control	A sediment erosion management plan will be required to be prepared and implemented prior to works commencing. It is considered that as the site is gently sloping, no significant erosion or stability issues exist.
Vegetation	<p>The site has been utilised for residential purposes over a long period of time and is therefore predominantly turfed. The landscape design shows numerous new trees and large shrubs will be planted as part of the development. A total of 42 trees with mature heights between 4m and 8m mature height are proposed to be planted.</p> <p>A condition of consent has been imposed which requires that an amended detailed landscape plan be submitted for each stage of the development prior to the issue of the Construction Certificate. This plan is required to indicate an additional shade tree planting for each dwelling within the development. The proposed tree removal is therefore considered acceptable in this instance.</p>
Waste Management	A bin store area has been provided along each side of the entrance driveway.
Geology	The site is gently sloping and it is considered that the geology of the site will not limit development on the site.

**Table 4** - Assessment against DCP Subdivision Controls

Subdivision Controls	
Provision	Comment
Servicing- water, sewer, electricity, telecommunications	A servicing strategy has been provided and is acceptable for the proposal. The proposed development will not create a substantial demand on existing utility infrastructure
Stormwater drainage	A servicing strategy for the site provides for easements to be acquired over adjoining downstream properties for flows up to the 1 in 100year ARI.
Site levels and retaining walls	The site falls to the south-west. Retaining walls are proposed for the site. No adverse impacts are likely on adjoining development.
Geology	The site is gently sloping and it is considered that the geology of the site will not limit development on the site.
Landscaping Plan	The site has been utilised for residential purposes over a long period of time and is therefore predominantly turfed. The landscape design shows numerous new trees and large shrubs will be planted as part of the development.
Environmental Values	The site does not exhibit any environmental values that would preclude the development.
Site access	Access to all future dwellings will be via Mulconda Close. Vehicular access is to be denied from Manilla with the exception of construction vehicle access. Pedestrian access is proposed to Manilla Road.
Construction waste	A suitable construction waste management plan will be required to be prepared. A condition of consent is imposed to ensure that all construction waste is suitably managed.
Garbage collection	Residents will transfer waste to a centralised collection point. Commercial contractors with maximum size 8.8m vehicles will be able to enter and exit the site in a forward direction to empty waste bins.
Community title subdivision	The community title subdivision proposal will provide for shared recreational facilities and open space.
Contamination	The site is not impacted by contamination. A Preliminary Site Investigation was carried out and identified no area or material of concern on the subject site.
Soil and Erosion control	A sediment erosion management plan will be required prior to works commencing. It is considered that as the site is relatively flat, no

	significant erosion or stability issues exist.
Aboriginal Cultural Heritage	An AHIMs search conducted for the site did not reveal any known sites or places of significance on the site.

**Development Contributions and Headworks:**

Conditions have been included in the recommended terms of consent requiring the applicable Section 7.11 Development Contributions and headworks charges to be paid prior to the issue of a Construction Certificate.

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

Nil

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

**Demolition of a Building (clause 61)**

The development involves the demolition of a dwelling and outbuildings. A condition is recommended requiring the demolition to be carried out in accordance with Australian Standard AS2601 - 2001: The Demolition of Structures and the requirements of Safe Work NSW.

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

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

**Context and Setting**

The subject site is located in an established residential area that consists predominantly of single storey residential dwellings. As previously discussed, the proposal is considered to be consistent with the existing land uses and is unlikely to have any adverse impacts on the surrounding locality with the exception of traffic movement along the narrowest portion of Mulconda Close. Following discussions with the Manager, Development the development was amended to address this issue.

The land directly to the north west, being Lot 14 in DP22919, is currently utilised by the small business Phil Hunt Parts. Phil Hunt Parts deals in spare parts for various makes and types of heavy machinery. The yard is used for dismantling and storage of machines prior to their reworking and resale to the general public. The current business hours are strictly 8.00am to 5.00pm with no work completed on the weekends. This type of business has potential to generate noise and odour impacts.

The business operates Monday to Friday 7.00am to 5.00pm, Saturday 8.00am to 1.00pm and no work on Sundays and all air compressors are silenced. These business hours are sympathetic to the surrounding neighbourhood and noise attenuation measures are considered suitable. There have been no known noise complaints lodged against the business to date.

### Site Design and Internal Layout

The proposed multi-dwelling housing development has been designed to maximise the development potential of the site, but in a manner that does not adversely impact upon the amenity or established character of the area. The internal circulation of development will allow residents to move in an orderly manner to enjoy the facilities of the site and connect with the broader neighbourhood.

### Access, Transport and Traffic

#### Access

Mulconda Close is a local street with a pavement width of ten metres for the majority of its length. North of Bellas Way it becomes a cul-de-sac and has a short length (22 metres) of narrower carriageway (six metres wide) before widening to accommodate the turn head.

Due to the narrow width of the road the two-way passage of vehicles on this street is impeded when vehicles are parked kerbside. Council engineers consider that “No-Stopping” signs or roadside parking bays could be utilised to facilitate more controlled parking and passing opportunities for vehicles in the Close.

Further to consultation with the proponent an amended plan was submitted indicating the placement of two no-stopping signs on the eastern and western side of Mulconda Close. The plan also indicates the proposed location of the two on-street car parking spaces that are to be available for public use.

The only alternative to use of Mulconda Close is for vehicular access to be obtained from Manilla Road. This would require a re-design of the development. The use of Mulconda Close for egress from the site is considered preferable to the use of Manilla Road. Ongoing use of Manilla Road for access to the site would require the further approval of TfNSW.

#### Traffic Generation

Due to the traffic generated by the development being directed onto Mulconda Close a Traffic Impact Assessment was carried out to assess the impact of the proposal on the local road network.

The assessment recorded two-way flows on Mulconda Close north of Johnston Street at 43 vehicles per hour (*vph*) in the AM and 26 *vph* in the PM peak (peak hours were determined as 8.00am – 9.00am and 4.30pm - 5.30pm).

Based on the number of proposed dwellings, the additional daily trips are likely to be 5.0-6.5 per dwelling, with weekday peak hour vehicle trips of between 0.5-0.65 per dwelling. This would amount to 55-72 additional trips per day or 5.5-7 additional trips in the weekday peak.

The impact of seven additional trips in the peak period on either Mulconda Close or Johnston Street will have minimal impact with both continuing to operate well within their capacity. Mulconda Close will continue to operate well within the level of service ‘A’ that it currently enjoys.

#### Construction Traffic

Construction traffic is proposed to access the site from the Manilla Road frontage. As Manilla Road is a classified road the application was referred to TfNSW seeking concurrence in accordance with Section 138 of the *Roads Act 1993*. TfNSW provided concurrence to the carrying out of the proposed works subject to Council ensuring that:

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1. *Council to be satisfied that stormwater drainage and flooding requirements are catered for appropriately and should advise TfNSW of any adjustments to the existing system that are required prior to final approval of the development.*
2. *The works shall be designed and constructed in accordance with the current Austroads Guide to Road Design and Transport for NSW supplements, to the satisfaction of TfNSW and Council.*
3. *All works associated with the proposed development should be carried out at full cost to the developer and at no cost to TfNSW or Council and to TfNSW and Council requirements.*

TfNSW also advised Council that:

- any damage to the roadway is to be reinstated at full cost of the developer;
- a Construction Traffic Management Plan be prepared to minimise the impacts on traffic efficiency and road safety on Manilla Road;
- that there must be an approved Road Occupancy Licence obtained for the works prior to any lane closure or erection of any structures; and
- Council should consider the environmental impacts of any road works which are ancillary to the development.

Each of these matters are addressed through conditions of consent, where necessary.

#### Views and Visual Impact

There are no significant views to be impacted by the single storey proposal. The development will also be constructed in a manner consistent with the visual character of the area. Colours and materials of construction will be consistent with development in adjoining streets. The proposed development is considered to be consistent with the scale of existing development and the intended purpose/character of the surrounding locality.

#### Privacy (Aural and Visual)

The site will be screened appropriately which will effectively mitigate the potential for both aural and visual impacts on the privacy of adjoining development. Boundary fencing and landscaping will enable the development to blend with its surroundings.

#### Overshadowing

The proposed development is single storey and therefore any overshadowing impacts on adjoining properties will be minimal. Separation distances to existing dwellings in the locality mitigate any potential overshadowing impacts.

#### Heritage

The subject site is not identified as having heritage significance or being located near any heritage listed areas. An AHIMs search conducted for the site did not reveal any known sites or places of significance on the site.

#### Water

The site is serviced by an existing Council water main located within the site. Internal hot and cold-water plumbing associated with the development is to be approved as part of the Section 68 Plumbing and Drainage Application lodged with Council.

### Sewer

The site is serviced by existing Council sewer mains located in the north-western corner and along the southern boundary of the site. Internal sanitary drainage pipework associated with the development is to be approved as part of the Section 68 Plumbing and Drainage Application lodged with Council.

### Drainage

A servicing strategy for the site provides for easements to be acquired over adjoining downstream properties for flows up to the 1 in 100year ARI. Any stormwater runoff produced from the impervious surfaces of the proposed development will drain to the existing stormwater infrastructure available to the site and be diverted through these easements.

### Waste

Construction of the proposed development is likely to result in the production of both general and recyclable waste. Such waste will be held on site by the contractor and will be disposed of to a waste management facility.

### Bushfire

The site is not identified as being bushfire prone in accordance with Tamworth Regional Council's Bushfire Prone Land mapping.

### Flooding

The site is not identified as being flood prone in accordance with Tamworth Regional Council's Flood Prone Land mapping. Local flooding within the site has been addressed through the proposed stormwater management strategy and proposal to install downstream infrastructure and easements.

### Safety, Security and Crime Prevention

The four basic principles of Crime Prevention Through Environmental Design (CPTED) are considered to have been incorporated in the design of the development. The application was not supported by a Crime Risk Assessment however, the principles are considered below:

#### *Surveillance*

- All dwellings have front windows and can provide casual surveillance of communal areas.
- The car park is a simple layout which minimises blind spots and is visible from the street.

#### *Access Control*

- Pedestrian access from Manilla Road is mitigated by surveillance of this area by the dwellings that face onto the pathways.
- The site has a clearly identified point of access

#### *Territorial Reinforcement*

- The development has been designed to make it clear where the public can and cannot go by restricting access.
- The layout of the visitor carpark provides for some surveillance from the street.
- The site is to be fully fenced.

#### *Space Management*

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- The site will be well maintained, and waste removed regularly.

The proposal was referred to the Local Area Command (NSW Police) for comment in regard to the development's compliance with the Safer by Design principles. No comments or objection to the proposal were received. It is noted however that concerns relating to the obstruction of parked vehicles for emergency service vehicles is an existing safety issue and will be exacerbated by the proposed development. It is therefore considered a necessary requirement for no-stopping signs to be installed along the narrow section of Mulconda Close as shown on the endorsed plan. The no-stopping signs will facilitate space for the passage of emergency and service vehicles to all residents in the street.

#### Social Impact

The provision of additional housing within the local community is likely to result in a positive social impact, enhancing accommodation opportunities and contributing to home ownership options for residents.

The construction and subdivision of the proposed multi dwelling housing development will contribute to the housing needs of the community and contribute to the variety of housing types and densities available in the locality. The provision of two units within the development as 'affordable housing' as requested by Council is a positive improvement to the project as it will assist in delivering housing across a range of incomes. For the two dwellings to operate as affordable housing they are required to be sold to and managed by a registered community housing provider for a minimum period of 15 years. A condition of consent has been imposed to ensure the ongoing ownership and management of the affordable housing units.

It is acknowledged that this development will result in a minor increase in traffic volumes on the local street network and some residents may be concerned with the installation of no-stopping signage in front of their property. However, it is not unreasonable to require the installation of these signs as a necessary safety improvement to the narrowest section of Mulconda Close.

#### Economic Impact

The proposed development is likely to result in a positive economic impact in the locality through the provision of employment during construction.

#### Cumulative Impacts

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

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

The subject site is considered suitable for the proposed development. The site is zoned R1 General Residential and multi-dwelling housing and community title subdivision are permitted with consent. Conditions have been included in the recommended conditions of consent in order to mitigate impacts on neighbouring properties.

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

The application was publicly exhibited between 23 April and 7 May 2024, in accordance with the Tamworth Regional Development Control Plan 2010 and four submissions and one petition containing 52 signatures was received.

Further to consideration of submissions the applicant was requested to provide an amendment to the proposal. The application was not required to be re-advertised as the

changes made to the development were in response to the issues raised in the submissions and matters raised by Council. The changes made are considered minor with the exception of the inclusion of no stopping signs on Mulconda Close. Whilst this may be considered as an impost on the neighbouring properties, the no stopping signs are also considered an important safety mechanism to resolve an existing safety issue due to the narrow width of that section of Mulconda Close. This would be the case regardless of whether or not this proposed development was lodged. A condition of consent has been imposed to require the developer to construct two on-street car parking spaces for public use to compensate for the loss of on-street parking due to the parking restriction.

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

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

**Table 5** - Response to the issues raised in submissions

Issue	No. of Submitters	Response
Traffic impacts in Mulconda Close and local area. Safety concerns.	Two plus Petition	<p>A TIA (Traffic Impact Assessment) was submitted as part of the DA.</p> <p>The proposed development will result in a minor increase in traffic in the locality. The proposal was assessed by Council's Development Engineering Division and is considered satisfactory in terms of the local road network and intersection arrangements.</p> <p>Despite narrow local roads vehicular and pedestrian movements in the locality are able to be carried out in an efficient and safe manner.</p> <p>In order to address concerns regarding the narrowness of Mulconda Close, the proponent has provided:</p> <ul style="list-style-type: none"><li>• No stopping signs,</li><li>• Two additional public spaces in the cul de sac, and</li><li>• Three additional onsite visitor parking spaces (nine in total)</li></ul> <p>These measures will ensure that vehicles are able to pass safely and efficiently within the street and that residents and their visitors can continue to park in close proximity to their property.</p>
Impact on gully on site	Two	Council's Development Engineering Division assessed the stormwater management system proposed and found that it would be insufficient to control flows from the proposed development. Subsequently a downstream easement was negotiated with the landowner to allow the

		<p>upsizing of pipes and creation of an easement for overland flows generated from the site.</p> <p>A deferred commencement consent is proposed to require the creation of the required easements prior to the development consent becoming effective.</p> <p>All erosion and sedimentation control measures must be provided in accordance with the relevant guidelines. Conditions of consent has been provided to ensure measures are installed prior to any works commencing onsite.</p>
Garbage collection	Two plus a petition	<p>Garbage collection is to occur via a private contractor who will be able to enter the site, collect bins from a centralised storage location, and exit the site in a forward direction onto Mulconda Close. This arrangement is suitable for the proposed community title development.</p> <p>Council contracted waste collection trucks currently navigate the local roads to collect kerb-side garbage bins.</p>
S88B limits site to one dwelling	One	<p>The provisions of clause 1.9A of the TRLEP 2010 enable development on land in any zone to be carried out despite any agreement or covenant or similar instrument that might restrict the carrying out of that development. Multi-dwelling housing is permissible with consent in the R1 zone. Council is, therefore, able to consent to the 11 unit development.</p>
Density is inconsistent with area	Petition	<p>While the density of development on the subject site will exceed that of neighbouring residential development, the lot sizes proposed are to range from 291-640m<sup>2</sup>, which is commensurate with the average size of the lots immediately adjoining the site. Based on the total site area the development has a density of one (1) dwelling per 673m<sup>2</sup>. The proposed density is typical of multi-dwelling housing development elsewhere.</p>
Mulconda Close is too narrow	Petition	<p>Council's Development Engineering Division has assessed Mulconda Close and consider that it is suitable for providing vehicular access into the site.</p> <p>Concerns were, however, raised with the width of Mulconda Close at its narrowest. Mulconda Close narrows to 6m for a small section of its length at the approach to the development site. Similar</p>

		<p>developments were however noted as operating without issue or complaint. No-stopping signs are proposed to facilitate more controlled parking and passing opportunities for vehicles in the Close.</p> <p>Whilst this may be considered as an impost on the neighbouring properties, the no stopping signs are considered an important safety mechanism to resolve an existing safety issue due to the narrow width of that section of Mulconda Close, regardless of whether or not this proposed development was lodged.</p> <p>The use of Mulconda Close for egress from the site is considered preferable to the use of Manilla Road.</p>
Pedestrian access to Manilla Road is unsafe- encourages crime.	Two	Pedestrian access to Manilla Road will allow residents to access public transport opportunities. It is not considered to create security issues for the development or neighbouring residents. Access to Manilla Road will be restricted to residents of the development only. The development has been designed to make it clear where the public can and cannot go by restricting access by way of fencing and gates. A condition has been included requiring this detail to be provided on the landscape plan.
Entrance should be from Manilla Road	Petition	As a Classified Road, access from Manilla Road requires the consent of Transport for NSW. Consent has been granted for construction access only. The Mulconda Close access is considered suitable for ingress and egress vehicle movements of residents and visitors.
Adverse impact on property values	Petition	<p>Devaluation of property values is not a relevant consideration under the Environmental Planning and assessment Act.</p> <p>No specific justification was provided to support the perceived reduction in property values. It could equally be argued that property prices may increase with the provision of quality new housing development on a currently unmanaged and overgrown site.</p>

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

Public interest concerns whether or not the broader community interest is served by the approval of the development. The public interest has been considered as a part of the assessment of DA2024-0287. The provision of residential housing is considered responsive to the public interest.

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**(a) Policy Implications**

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

**(b) Financial Implications**

Nil

**(c) Legal Implications**

Nil

**(d) Community Consultation**

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

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

Four Submissions and a Petition signed by 52 objectors were received.

**CONCLUSION:**

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

The proposed development is consistent with the applicable environmental planning instruments and it is considered that the development will have a positive contribution to the site and the community. 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 TAMWORTH REGIONAL LOCAL TRAFFIC COMMITTEE MEETING - 4 DECEMBER 2024**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Graeme McKenzie, Manager - Strategy, Assets and Design  
Steven Marshall, Strategy, Assets and Design Engineer  
**6 ANNEXURES ATTACHED**  
**1 ENCLOSURES ENCLOSED**

**RECOMMENDATION**

***That in relation to the report “Tamworth Regional Local Traffic Committee Meeting - 4 December 2024”, Council:***

- (i) approve the proposed traffic impacts and the subsequent traffic management plan for the 2025 Tamworth Country Music Festival; and***
- (ii) approve the installation of No Stopping (R5-400n) signs on each side of the NSW State Emergency Service driveway on In Street, West Tamworth.***

**SUMMARY**

The purpose of this report is to advise Council of the two recommendations made by the Tamworth Regional Local Traffic Committee (the Committee) at the meeting held on 4

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December 2024.

## COMMENTARY

The minutes from the Committee meeting held on 4 December 2024 are **ENCLOSED**, refer **ENCLOSURE 1**.

### 112/2024 - 2025 Tamworth Country Music Festival

The Tamworth Country Music Festival is recognised as the largest and longest country music festival within Australia. It runs for 10 days in January each year, hosting thousands of visitors who partake in watching free street performances, paid music events, various market stalls, and is capped off with the Golden Guitar Music Awards.

Details for the proposed event are shown below:

- Event location: Tamworth central business district (CBD) and the Riverside Camping Grounds.
- Date: Friday 17 January 2025 to Sunday 26 January 2025.
- Road closure details:
  - reference **ATTACHED** road closure matrix, refer **ANNEXURE 1**.
- Roads affected: Peel Street, Kable Avenue, Fitzroy Street, Roderick Street, Carter Street and Plain Street.
- Number of visitors: estimated around 40,000 daily visitors.

The following documents are attached to this report:

- 2025 Tamworth Country Music Festival - traffic management plan (draft), **ATTACHED** refer **ANNEXURE 2**;
- hostile vehicle mitigation assessment report – final, **ATTACHED** refer **ANNEXURE 3**;
- parade route map 2025, **ATTACHED** refer **ANNEXURE 4**;
- traffic guidance schemes, **ATTACHED** refer **ANNEXURE 5**, including:
  - pool staff parking;
  - VMS board locations;
  - Riverside Camping all streets;
  - Peel Street closure at Brisbane Street;
  - taxi rank detail, Brisbane Street;
  - Fitzroy Street road closure;
  - Kable Avenue – White Street to Brisbane Street;
  - Peel Street closure at White Street;
  - Town Hall and Capital Theatre carpark;
  - Bridge Street bus zone;

- Tamworth Regional Entertainment and Conference Centre (TRECC) and Australian Equine and Livestock Events Centre (AELEC) parking restriction changes;
- Kable Avenue hostile vehicle mitigation device placement;
- Goonoo Goonoo Road bus stop Salvation Army;
- West Tamworth Leagues Club; and
- Ray Walsh House (RWH) carpark.

The traffic management plan is similar to previous festivals. The only change has been associated with the Tamworth Country Music Festival parade, with minor amendments to the marshalling and dispersing areas.

**COMMITTEE RECOMMENDATION:** the Committee members unanimously support the event, the proposed traffic impacts and the subsequent traffic management plan for the 2025 Tamworth Country Music Festival.

#### **129/2024 - Parking Restrictions adjacent to NSW SES Driveway, West Tamworth**

Tamworth Regional Council has been approached by the Superintendent of the NSW State Emergency Service (SES) regarding vehicles blocking the rear access driveway to their new premises on In Street, West Tamworth. Figure 1 below shows the location on a map, and Figure 2 is a photo of the driveway.



*Figure 1: Location of NSW SES*



Figure 2: Example of vehicles impeding the driveway access on In Street, West Tamworth.

After investigating the site, the Council Rangers requested No Stopping (R5-400n) signs be installed to prevent vehicles from obstructing the driveway.

During the Committee meeting, Councillor Budd requested the kerb be painted yellow between the new signs to reinforce the proposed No Stopping area.

A signage plan to illustrate the proposed changes has been **ATTACHED**, refer **ANNEXURE 6**.

**COMMITTEE RECOMMENDATION:** pending the requested amendment by Councillor Budd, the Committee members unanimously support the installation of the No Stopping (R5-400n) signs on each side of the NSW SES driveway on In Street, West Tamworth.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

112/2024 – Shall be funded by the existing special event traffic management budget.

129/2024 – Shall be funded by the road infrastructure maintenance budget.

**(c) Legal Implications**

Nil

**(d) Community Consultation**

129/2024 – Community notification with affected businesses will be completed prior to implementing the change.

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

Focus Area 5 – Connect our Region and its Citizens

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

### **9.1 AUDIT, RISK AND IMPROVEMENT COMMITTEE**

**DIRECTORATE:** OFFICE OF THE GENERAL MANAGER  
**AUTHOR:** Karen Litchfield, Internal Auditor

**1 ANNEXURES ATTACHED**  
**1 CONFIDENTIAL ENCLOSURES ENCLOSED**

#### **RECOMMENDATION**

*That in relation to the report “Audit, Risk and Improvement Committee”, Council:*

- (i) receive and note the Minutes of the meeting held 24 October 2024; and**
- (ii) adopt the Audit, Risk and Improvement Committee Four Year Workplan.**

#### **SUMMARY**

The purpose of this report is to present to Council the Minutes of the Audit, Risk and Improvement Committee meeting held Thursday, 24 October 2024.

#### **COMMENTARY**

The quarterly meeting of the Audit, Risk and Improvement Committee was held on Thursday, 24 October 2024. The Minutes of the meeting are **ENCLOSED**, refer **CONFIDENTIAL ENCLOSURE 1**.

The Audit, Risk and Improvement Committee Chair has drafted a Four Year Workplan with input from the Committee members and the Internal Auditor. The Workplan has been endorsed by the Committee and is **ATTACHED**, refer **ANNEXURE 1**, for Council's adoption.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Costs associated with the Internal Audit function are included in the 2024/2025 Annual Operational Plan.

**(c) Legal Implications**

Nil

**(d) Community Consultation**

Nil

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

Focus Group 9 - Open and Collaborative Leadership.

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## **10 COMMUNITY SERVICES**

Nil

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## **11 REPORTS TO BE CONSIDERED IN CLOSED COUNCIL**

### **RECOMMENDATION**

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

#### **12.1 PROPOSED LEASE OF PART LOT 101 DP 1119976**

**DIRECTORATE:** OFFICE OF THE GENERAL MANAGER  
**AUTHOR:** Nicholas Hawkins, Commercial Property Officer  
**Reference:** Item 12.5 to Ordinary Council 11 October 2022 - Minute No 309/22

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

### **SUMMARY**

The purpose of this Council report is to seek Council's authorisation to negotiate and enter into a lease agreement (as lessee) with the party identified in the body of this report for Part Lot 101 DP 1119976.

#### **12.2 T006-2025 HAULAGE OF RECYCLING SERVICES**

**DIRECTORATE:** WATER AND WASTE  
**AUTHOR:** Bruce Logan, Director - Water and Waste  
**2 CONFIDENTIAL ENCLOSURES ENCLOSED**

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

### **SUMMARY**

In late 2022, Council entered into a contract with IQ Renew Pty Ltd to undertake processing of recyclables collected from the kerbside (the yellow bin), hereafter referred to as kerbside recyclables, across the Council area. The contract commenced on 1 December 2022 and ends on 30 June 2028. Under the contract IQ Renew process the kerbside recyclables at its plant in Somersby NSW. As a result, at the time of entering into the contract for processing of kerbside recyclables, Council also entered into a two year contract with IQ Renew to transport the recyclables from Council's Forest Road Waste Management Facility to the Somersby facility.

The process is:

- Cleanaway, who provides Council's waste collection services, services the yellow bins and delivers the contents to the Forest Road Waste Management Facility (FRWMF) where it is temporarily stockpiled. Council pays Cleanaway for this service;
- at least each week day the stockpiled recyclables are loaded onto trucks and transported to IQ Renew's Somersby plant for processing. Council pays IQ Renew for the transport cost with the loading of the trucks done by Council staff at Council's direct cost; and
- the kerbside recyclables are transported to Somersby and Council then pays IQ Renew for processing.

As mentioned, the initial transport contract with IQ Renew was for two years. This period was chosen because, at the time, it was important to get the kerbside recyclables processing commenced, which required transportation, but given the length of the processing contract, it would be possible to enter into a longer-term transportation contract after two years which may see some reduction in costs to Council over the longer term.

Tenders for the longer-term haulage of kerbside recyclables between Council's FRWMF and IQ Renew's Somersby processing plant have now been received. The purpose of this report is to seek Council's approval to enter into a contract with the preferred tenderer.

### **12.3 REAPPOINTMENT OF THE GENERAL MANAGER - TAMWORTH REGIONAL COUNCIL**

**DIRECTORATE:**                   **OFFICE OF THE GENERAL MANAGER**

**AUTHOR:**                       **Russell Webb, Mayor**

**Reference:**                   **TABLED - 2023/2024 General Manager Performance  
Agreement**

**1 CONFIDENTIAL ENCLOSURES ENCLOSED**

The Council will determine this matter in part of the Meeting closed to the public pursuant to Section 10A(2) (a) of the Local Government Act 1993 on the grounds that the matter and information is personnel matters concerning particular individuals other than Councillors.

#### **SUMMARY**

This report recommends the reappointment of the General Manager for a further five year term commencing on 6 September 2025, in accordance with the Local Government Act 1993 (LGA) and the *“Guidelines for the Appointment and Oversight of General Managers”* issued by the Office of Local Government.

## 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.

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