



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, 25-27 Fitzroy Street, Tamworth**, commencing at **5:30pm**.

EXTRAORDINARY COUNCIL AGENDA

24 APRIL 2025

PAUL BENNETT
GENERAL MANAGER

Order of Business

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Council

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

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

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

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

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

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

Community Consultation Policy

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

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

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

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

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

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

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

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

Disclosure of Political Donations or Gifts

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

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

AGENDA

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

RECOMMENDATION

That the Minutes of the Ordinary Meeting held on Tuesday, 8 April 2025, copies of which were circulated, be taken as read and confirmed as a correct record of the proceedings of the Meeting.

- 4 DISCLOSURE OF INTEREST**

Pecuniary Interest

Non Pecuniary Conflict of Interest

Political Donations

- 5 MAYORAL MINUTE**

Nil

- 6 NOTICE OF MOTION**

Nil

OPEN COUNCIL REPORTS

- 7 ENVIRONMENT AND PLANNING**

- 7.1 RELEASE OF RESTRICTION ON THE USE OF LAND AND DA2025-0287 FOR THE CONSTRUCTION OF A SPECIALISED RETAIL PREMISES, SHOPS AND ASSOCIATED WORKS ON LOT 1 IN DP 1304039 - 408 GOONOO GOONOO ROAD, HILLVUE NSW 2340**

DIRECTORATE: LIVEABLE COMMUNITIES

AUTHOR: Alice Elsley, Team Leader - Development Assessment

2 ANNEXURES ATTACHED

1 CONFIDENTIAL ENCLOSURES ENCLOSED

GENERAL MANAGER'S ADVISORY NOTE TO:

Councillors

Applicants

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

Record (Division) of Voting

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

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

Relevant Planning Application

In accordance with Section 10.4(4) of the Environmental Planning and Assessment Act 1979, a person who makes a relevant planning application to Council is required to disclose the following reportable political donations and gifts (if any) made by a person with a financial interest in the application within the period commencing two 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; and
- (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; and
- (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 the report ‘Release of Restriction on the Use of Land and Development Application No. DA2025-0287 for construction of a specialised retail premises, shops and associated works on Lot 1 in DP 1304039 – 408 Goonoo Goonoo Road HILLVUE NSW 2340”, Council:

- (i) *authorise the Mayor and General Manager to enter into a Deed of Release for the release of a Restriction on the Use of Land affecting Lot 1 in DP 1304039;*
- (ii) *authorise the affixing of the Seal of Council to the Deed and any other related documents to affect the intention of the parties; and*
- (iii) *grant development consent to DA2025-0287, including a Clause 4.6 exception to the development standard under the Tamworth Regional Local Environmental Plan 2010, subject to the following conditions:*

General Conditions of Consent

- 1) *Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise:*

Approved Plans

Plan Title	Revision/I ssue	Plan/Sheet No.	Drawn/Issued By	Date of Plan
<i>Cover Sheet, Existing Conditions Plan, Proposed Site Plan, Ground Floor Plan – LFR 1 and 2, Ground Floor Plan – Retail (Shops) 1 and 2, Roof Floor Plan – LFR 1 and 2, Roof Plan – Retail (Shops) 1 and 2, Elevations – LFR 1 and 2, Elevations – Retail (Shops) 1 and 2, North Elevation – Overall, Sections – LFR and Retail (Shops) 1 and 2, Signage Details – Sheets 1 and 2, Shadow Diagrams – Sheets 1 and 2 (as amended in red)</i>	<i>B</i>	<i>DA001, DA015, DA020, DA101, DA102, DA111, DA112, DA151, DA152, DA153, DA161, DA162, DA171, DA172, DA201 DA202</i>	<i>Leffler Simes Architects</i>	<i>08/04/2025 and 17/04/2025</i>
<i>Landscaping Plans</i>	<i>A</i>	<i>LPDA 25 – 148, Pages 1 to 9 of 9</i>	<i>Concept</i>	<i>17/04/2025</i>
Approved Documents				
<i>Statement of Environmental Effects</i>	<i>Final</i>	<i>24BAS0095</i>	<i>Barr Planning</i>	<i>12/02/2025</i>
<i>Applicant's Response to Request for Further Information (RFI) and Amendment to DA2025-0287</i>	<i>-</i>	<i>24BAS0095</i>	<i>Barr Planning</i>	<i>09/04/2025</i>
<i>Applicant's Clause 4.6 Report</i>	<i>Final</i>	<i>24BAS0095</i>	<i>Barr Planning</i>	<i>09/04/2025</i>
<i>Economic Impact Assessment Memorandum</i>	<i>-</i>	<i>-</i>	<i>GapMaps</i>	<i>07/02/2025</i>

Transport Assessment Response Submission	Impact and to	v01	P2942	Ason Group	06/02/2025 and 08/04/2025
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In the event of any inconsistency between the conditions of this approval and the drawings/documents referred to above, the conditions of consent shall prevail.

- 2) *The development must be carried out in accordance with the Development Application and accompanying plans, drawings and other documents unless otherwise as amended by conditions of this consent. Any amendment to the development or to these conditions will require the consent of Council.*
- 3) *To confirm and clarify the terms of Council's approval, this consent provides for the following:*
 - a) *The construction of two buildings for the purpose of specialised retail premises (Tenancy 1 and Tenancy 2/LFR 1 and LFR 2) and shops (Shop 1 and Shop 2/Tenancy 3 and Tenancy 4); and*
 - b) *Landscaping, carparking, fencing, signage and retaining walls.*

Separate approvals must be obtained for the fit-out of all tenancies.

- 4) *The development approved by this consent shall be sited and constructed in accordance with the approved site plan. No portion of any proposed structures, including any fences, gates or signage, shall encroach upon any adjoining property or the road reserve area.*

Advisory note: Refer to Conditions No. 15 and Condition No. 72 for the requirement to provide peg-out and identification surveys to demonstrate compliance with this condition.

- 5) *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.*
- 6) *The Applicant shall consult with, as required:*
 - a) *natural gas company;*
 - b) *a telecommunications carrier; and*
 - c) *Essential Energy;*

regarding their requirements for the provision of services to the development and the location of existing services that may be affected by the proposed works, either on site or on the adjacent public road(s).
- 7) *All building work must be carried out in accordance with the provisions of the National Construction Code and Disability (Access to Premises – Buildings) Standard 2010.*
- 8) *Any existing State Survey Mark or Cadastral Survey Mark shall be preserved during construction and not disturbed unless authority has been obtained from the Surveyor-General in accordance with the Surveyor-General's Directions*

published by the NSW Land and Property Information Service. In this regard, the Principal Contractor is responsible for the protection of the mark.

9) *The applicant shall ensure that all necessary licences, permits and approvals required by other Government agencies under other legislation are obtained and kept up to date as required throughout the life of the development. None of the Conditions of Consent removes the obligation for the Applicant to obtain, renew or comply with such licences, permits or approvals.*

Prior to the Commencement of Works

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

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

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

- a) the name, address and telephone number of the Principal Certifier for the work;*
- b) the name of the Principal Contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and*

c) a statement that unauthorised entry to the work site is prohibited.

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

12) The contractors engaged 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.

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

Construction Environmental Management Plan

14) A Construction Environmental 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 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.
- d) Construction waste management.
- 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; and
- f) 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.

15) Prior to the commencement of works, a peg-out survey prepared by a Registered

Surveyor shall be provided to the Certifier to confirm that the development can be sited in accordance with the approved plans.

16) **Prior to carrying out any works, a “Dial Before You Dig” enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).**

Prior to any works within the Goonoo Goonoo Road Reserve (New England Highway) - Intersection and Pedestrian Access Requirements

17) a) **Prior to any works within the Goonoo Goonoo Road Reserve (New England Highway), the following documents must be prepared and submitted for the approval of Council’s Director of Liveable Communities and Transport for NSW (TfNSW):**

- (i) **a warrant assessment for traffic control measures in accordance with relevant RMS and Austroads guidelines;**
- (ii) **a strategic design of the proposed intersection upgrade at Goonoo Goonoo Road and Craigends Lane;**
- (iii) **updated traffic modelling that incorporates forecasted traffic volumes based on all approved and lodged development applications in the surrounding area; and**
- (iv) **an operational assessment demonstrating the intersection’s ability to achieve an acceptable Level of Service under peak conditions, as per Austroads Guide to Traffic Management – Part 4.**

b) **If the traffic modelling and warrant assessment indicate that the current proposed dual-lane roundabout is not sufficient to achieve the required performance outcomes, the following must occur:**

- (i) **submission of plans which show revised intersection treatment options, which may include a signalised intersection, for the approval of Council’s Director of Liveable Communities and Transport for NSW (TfNSW);**
- (ii) **obtain an amended Works Authorisation Deed (WAD) from TfNSW; and**
- (iii) **if appropriate, lodge and obtain approval for a modification application to the Development Consent under section 4.55 of the Environmental Planning and Assessment Act 1979.**

Pedestrian and Cyclist Connectivity Requirements

18) **The following documents must be prepared and submitted for the approval of Council’s Director of Liveable Communities and Transport for NSW (TfNSW):**

- a) **Preliminary and detailed design plans for a signalised pedestrian crossing (or alternative pedestrian-activated traffic control facility, if deemed appropriate by TfNSW) across Goonoo Goonoo Road, including plan views, elevations (where applicable), signage and line-marking layouts, pedestrian/cyclist refuge design and any proposed kerb ramps;**
- b) **A pedestrian and cyclist movement and connectivity report that demonstrates how the proposed crossing accommodates safe movement for both pedestrians and cyclists, integration with existing and proposed footpaths, cycleways, public transport stops, desire lines, and any required treatments to support safe access for vulnerable users (e.g. children,**

people with disabilities); and

c) *A design compliance statement, signed by a suitably qualified traffic or transport engineer, confirming that the design complies with Austroads Guide to Road Design – Part 6A: Pedestrian and Cyclist Paths, the design complies with any applicable TfNSW standards and technical specifications, and any departures from standards are identified and justified:*

(i) *if appropriate, obtain an amended Works Authorisation Deed (WAD) from TfNSW; and*

(ii) *if appropriate, lodge and obtain approval for a modification application to the Development Consent under section 4.55 of the Environmental Planning and Assessment Act 1979.*

Prior to Issue of a Construction Certificate

19) a) *In accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 and the Tamworth Regional Council Section 7.12 (formerly known as S94A) Development Contributions Plan 2013, \$251,900.00 shall be paid to Council to cater for the increased demand for community infrastructure resulting from the development. Contact development@tamworth.nsw.gov.au to request a tax invoice for payment of these fees:*

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:*

$$\$CPY = \$CDC \times CPIPY$$

CPIDC

\$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*

Where:

c) ***The monetary contributions shall be paid to Council:***

It is i) Prior to the issue of the first Construction Certificate the where the development is for building work

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

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

- 20) ***The developer must submit to Council a copy of the Aboriginal Heritage Impact Permit (AHIP 5206) issued by Heritage NSW under Section 90 of the National Parks and Wildlife Act 1974 relating to Lot 1 DP 1304039.***
- 21) ***Prior to the issue of a Construction Certificate, detailed construction plans and specifications that demonstrate compliance with the requirements of the NCC must be submitted to the Certifier for approval. If there are any non-compliance with the deemed-to-satisfy provisions of the NCC, an alternate method of compliance must be submitted with all supporting documents prepared by suitably qualified persons.***
- 22) ***A Fire Safety Schedule must be issued with the Construction Certificate in accordance with Clauses 78 and 79 of the Environmental Planning & Assessment (Development Certification and Fire Safety) Regulation 2021 and include fire safety measures pertaining to the entire building.***
- 23) ***Pursuant to Section 306 of the Water Management Act 2000, Council (as the Local Water Supply Authority) requires the following contribution payments to be made prior to issue of any Construction Certificate.***
 - a) ***Headworks (Additional):***
 - i) ***Water = \$352,404***
 - ii) ***Sewer = \$130,947***
- 24) ***The developer must produce written evidence that an agreement can be put in place with Council's Water and Waste Directorate or a waste collection contractor for the collection of rubbish bins from private property prior to issue of any Construction Certificate.***
- 25) ***Prior to the issue of a Construction Certificate, an approval from Council under Section 138 of the Roads Act 1993 is required to construct vehicle accesses and a central median the full length of the internal road between the Goonoo Goonoo***

Road intersection and the first internal roundabout which is required for this development. Detailed engineering drawings and construction specifications, specific to the works prepared in accordance with Council's Engineering Design Minimum Standards shall be submitted with an application for the Section 138 approval.

26) *Prior to the issue of a Construction Certificate, a stormwater servicing strategy for the development site shall be prepared and submitted to Council for approval. The stormwater servicing strategy shall be prepared in accordance with the requirements of Minimum Standards for Stormwater Drainage of Council's current version of Engineering Design Minimum Standards, and shall be used to inform the detailed stormwater drainage design for the development site.*

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

- a) *assessment and preparation of management strategies for the catchments contributing to the Barnes Gully and Yellow Gully to demonstrate that there will be no negative impacts on downstream properties and infrastructure. This shall include an assessment of the requirement for detention of flows, including recommendations around detention of flows;*
- b) *minor stormwater network including conveyance of flows to Barnes Gully and Yellow Gully;*
- c) *overland flow paths for excess flows generated by storms up to the 1% AEP;*
- d) *any post developed flows leaving the site (detained and/or un-detained); and*
- e) *if the development cannot meet any required detention and/or drainage infrastructure requirements of Council's Engineering Design Minimum Standards, a modification to the Development Application will be required to be submitted and approved.*

27) *Prior to the issue of a Construction Certificate, any approvals required under Section 68, Parts A to F, of the Local Government Act 1993, for the development shall be obtained from Council. This may include but is not limited to the following approvals:*

- a) *carry out water supply work;*
- b) *carry out sewer work;*
- c) *disposal of liquid trade waste; and*
- d) *carry out stormwater drainage work.*

28) *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 practicing structural engineer. Details are to be included with any Construction Certificate application.*

29) *Prior to the issue of a Construction Certificate, detailed plans of the mechanical exhaust ventilation system must be prepared by a suitably qualified person.*

The detailed plans must be in accordance with the following and submitted to the Council:

- a) Australian Standard 1668: - The use of ventilation and air-conditioning in buildings; and**
- b) ensure all generate heated air, smoke, fumes, steam or grease vapours do not:**
 - i) cause a nuisance to persons within or nearby to the premises; or**
 - ii) cause air pollution as defined under the NSW Protection of the Environment Operations Act 1997.**

30) Prior to the issue of a Construction Certificate, an amended and/or new landscaping plan shall be submitted to, and approved, by Council's Director of Liveable Communities. The landscape plan shall include the following details:

- a) additional planting within the adjoining Lot 1820 in DP 1122162, to screen the retaining wall and fence situated on the northern boundary of future Lots 201, 202 and Part 203; and**
- b) a planting schedule, including the botanical names, common names, pot size, height and spacing. The species shall be drought and frost tolerant and be selected from the 'Australian Plants Suitable for the Tamworth Regional Council Areas' list.**

31) Prior to the issue of a Construction Certificate, the Applicant shall submit written confirmation to Council confirming that the development complies with the safe distances from Essential Energy's infrastructure.

Any structures required to be altered/removed or reduced in size is permitted in order to satisfy any safe distance setback requirements stipulated by Essential Energy. In this regard, an amended plan set must be provided to Council prior to the issue of a Construction Certificate.

32) Prior to the issue of a Construction Certificate, the Applicant shall submit details for approval by the Principal Certifier demonstrating that the following matters have been addressed as a part of the detailed design process:

- a) provision for the charging the electronic vehicles within the carpark and electrical design for the same, if required by the NCC;**
- b) adoption of the recommended measures in the Ecological Sustainable Development Report prepared by EMF Griffiths (Issue B and dated 6 February 2025) to meet the requirements under Section 3.2 of the Sustainable Buildings SEPP 2022;**
- c) the development shall be designed and constructed to ensure the embodied emissions attributable to the project capture no less than 80% of material costs for the structure, envelope, and external works; and**
- d) provision for end of trip facilities, such as bike racks, storage, shower and changing facilities.**

During Works

General

33) Work for this development shall be limited to the following hours to prevent

unreasonable disturbance to the amenity of the area:

- a) *Monday to Friday: 7.00am to 5.00pm;*
- b) *Saturday: 8.00am to 1.00pm if audible on other residential premises, otherwise 7.00am to 5.00pm; and*
- c) *no work to be carried out on Sunday or Public Holidays if it is audible on other residential premises.*

- 34) *The developer shall be responsible to instruct and control all contractors regarding the hours of work. Council will exercise its powers under the Protection of the Environment Operations Act 1997, in the event that the building operations cause noise to emanate from the property on Sundays or Public Holidays or otherwise than between the hours detailed above.*
- 35) *Erosion and sediment control measures in accordance with the approved ESCP are to be maintained by the developer at all times.*
- 36) *The approved Traffic Management Plan (inclusive of any resultant Pedestrian Management Plans) and the (TGS's) shall be implemented and any associated barriers, signage and controls shall be maintained in a functional state at all times.*
- 37) *The footpath and/or road reserve shall not be used for construction purposes or placing of building materials or construction fencing without prior written approval from Council. Approval will only be considered in extreme or highly constrained circumstances.*
- 38) *Any damage caused to Council infrastructure in, on or under the road reserve as a result of works undertaken for the development site shall be rectified by the developer to the satisfaction of Council so as to ensure the integrity of Council's infrastructure.*
- 39) *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.*
- 40) *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.*

Stormwater

- 41) *All roof water stormwater discharging from the proposed development site, buildings and works must be conveyed to the approved point of discharge by underground pipe drains complying with AS3500.3 (as amended) to the satisfaction of Council. No effluent or polluted water of any type may be allowed to enter the Council's stormwater drainage system.*
- 42) *Runoff from all hardstand areas shall be captured on site and piped to the approved point of discharge in accordance with the current version of Council's Engineering Design Minimum Standards for Subdivisions and Developments.*

43) Additionally, the stormwater discharge drainage system must be constructed to comply with the following requirements as a minimum:

- a) all plumbing within the site must be carried out in accordance with relevant provisions of Australian Standard AS/NZS 3500.3 (as amended) Plumbing and Drainage – Stormwater Drainage;
- b) temporary down pipes shall be connected as soon as the roof has been covered so as to not cause a nuisance to adjoining properties;
- c) all overland surface flow paths must have a practical and satisfactory destination with due consideration to erosion and sediment control during all stages of development. A system to prevent overland flows discharging onto adjoining properties shall be implemented;
- d) any interruption to the natural overland flow of stormwater drainage which could result in the disruption of amenity, or drainage or deterioration to any other property is not permitted; and
- e) all overflow from rainwater tanks shall be collected and piped to the approved point of discharge.

44) Approved points of discharge for the development must be consistent with the approved Interallotment Drainage design specified in DA2023-0308 (or as modified).

Parking

45) On-site parking accommodation shall be provided for a minimum of 312 vehicles, to ensure the provision of adequate on-site parking facilities commensurate with the demand likely to be generated by the proposed development. Such parking must be set out generally in accordance with the details indicated on the submitted plans, except as otherwise stated by the conditions of this consent. Additionally, the carpark shall include provision for electronic vehicle charges, if required under the NCC.

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

47) A minimum of 20 on-site bicycle parking spaces shall be provided for the development. The location, design and construction of bicycle facilities shall comply with AS2890.3 – Parking Facilities – Bicycle Parking.

48) All internal driveways and parking areas and manoeuvring areas are to be constructed with a base course of adequate depth to accommodate heavy vehicle loading, being sealed with either asphaltic concrete, concrete or interlocking pavers.

49) To provide for the safety and security of employees and users of the facility, outdoor lighting in accordance with AS1158.3.1 Pedestrian Area (Category P) Lighting shall be provided to all off-street parking areas. The lighting installed must comply with AS4282 Control of Obtrusive Effects of Outdoor Lighting.

50) Pedestrian access generally in accordance with drawings provided with the Development Application shall be provided and shall comply with the

requirements of AS1428.1-2009 Design for Access Mobility.

Street Lighting

- 51) **Street lighting shall be provided to ensure an acceptable level of lighting for pedestrian traffic and security for the development site.**
- 52) **Street lighting fronting the development site shall be provided and comply with the requirements of AS/NZS1158 (as amended) to the following classification:**
 - a) **access roundabout shall be illuminated to lighting subcategory P3; and**
 - b) **access road shall be illuminated to lighting subcategory PR5.**

Allotment Filling

- 53) **Certification of the allotment filling shall be provided by a geotechnical testing authority registered under NATA. The testing authority shall be required to certify whether the fill complies with the requirements of AS2870.1 (as amended) – Residential Slabs and Footings – Construction, as “controlled fill”.**
- 54) **Any material accepted for the use of land filling must be free from contamination. The material used must be able to be accounted for with regards to its origin and contaminates. The details of any contractor involved in the delivering of fill must be recorded. Documentation must be obtained from the contractor(s) delivering the fill and include the address of the origin of the material, the details of the company and the details of the driver. Fill must not be received without first obtaining approval from Council.**

Contamination

- 55) **In the event that any contamination or chemical (a concentration of substances above that natural present that poses, or is likely to pose an immediate or long-term risk to human health or environment) is discovered work must immediately cease and the Council’s Senior Environmental Health Officer must be contacted to arrange an inspection.**

Heritage

- 56) **Any works in proximity to an Aboriginal site, object or relic that are impacted by the proposal are only to be undertaken in accordance with an Aboriginal Heritage Impact Permit (AHIP).**
- 57) **While building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Housing and Infrastructure.**

In this condition:

- a) **“relic” means any deposit, artefact, object or material evidence that:**
 - i) **relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement;**
 - ii) **is of State or local heritage significance; and**

iii) “*Aboriginal object*” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

Inspections

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

Electricity Infrastructure

59) *Any activities in proximity to electrical infrastructure must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.*

Bushfire

60) *Landscaping within the required Asset Protection Zone must comply with Appendix 4 of Planning for Bushfire Protection 2019.*

61) *Property access roads and utilities (i.e. water, gas, and electricity) for the development must comply with Table 7.4a of ‘Planning for Bushfire Protection’.*

Prior to Issue of an Occupation Certificate

62) *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.*

63) *The occupation or use of the whole or any part of a new building shall not commence unless a Section 68 certificate of completion has been issued by Council. The certificate of completion shall not be issued until such time as all relevant conditions of the Section 68 approval have been complied with and all applicable documents received by Council.*

64) *Full width road construction that satisfies the Minimum Standards for Roads of Council’s current version of the Engineering Design Minimum Standards for Subdivisions and Developments, Austroads Guide to Road Design and Transport for NSW supplements, is required for the full frontage of the development site prior to the issue of an Occupation Certificate.*

65) *Prior to the issue of an Occupation Certificate, the intersection between Goonoo Goonoo Road and Craigends Lane shall be upgraded. The proponent must obtain Roads Act 1993 consent from Transport for NSW (TfNSW) for all works within the classified State road (Goonoo Goonoo Road) reserve in the form of a Works Authorisation Deed (WAD).*

Advisory Notes:

a) *As classified State road works are required, should the proponent undertake works they must enter into a Works Authority Deed (WAD) with TfNSW. TfNSW would exercise its powers and functions of the Road*

Authority, to undertake road works in accordance with Section 64, 71 and 73 of the Roads Act, as applicable, for all works under the WAD.

- b) The proponent is advised that the Conditions of Consent do not guarantee TfNSW final consent to the specific road work, traffic controls facilities and/or other structures or works, for which it is responsible, on the road network. TfNSW must provide a final consent for each specific change to the classified State road network prior to the commencement of any work.**
- c) The WAD process, including acceptance of design documentation and construction, can take time. The proponent should be aware of this and allow sufficient lead time within the project development program to accommodate this process. It is suggested that the proponent work through this process as soon as possible with TfNSW.**
- d) In accordance with regulatory requirements, a plan of the intersection upgrade shall be submitted to the Local Traffic Committee for comment and acceptance prior to issue of a Subdivision Works Certificate.**
- e) Any landscaping shall be shown on the design drawings and included in the landscaping plans. Any proposed landscaping shall be designed such that it does not interfere with the design sight distances of the intersection in accordance with the relevant Austroads guidelines.**

Pursuant to normal engineering practice and the requirements of the various utilities providers, the intersection design shall make provision for protection and/or relocation of all utility services, including optic fibre.

66) Pursuant to Section 306 of the Water Management Act 2000, Council requires the following works to be completed prior to the issue of an Occupation Certificate.

- a) Water:**
 - i) a single water service to be provided to the lot;**
 - ii) the developer will be responsible for engaging a hydraulic engineer to determine the fire fighting and domestic demands, and to determine an appropriate service size for the development;**
 - iii) if the existing water service requires upsizing or relocation then the existing service is to be removed and disconnected from the water main;**
 - iv) works shall be undertaken in accordance with Council's Engineering Design Minimum Standards; and**
 - v) work on live water mains is to be undertaken by Council at full cost to the developer.**
- b) Sewer:**
 - i) a single sewer service to be provided to the lot.**

67) A Certificate of Compliance under Section 307 of the Water Management Act 2000 shall be obtained from the Council (as the Local Water Supply Authority) prior to the issue of any Occupation Certificate. All payments and works required under Section 306 of the Water Management Act 2000 must be completed prior to issue of a Certificate of Compliance.

- 68) For developments where allotment filling has been undertaken, a copy of the NATA testing authority certification for compliance to the requirements of AS2870.1 (as amended) – Residential Slabs and Footings – Construction shall be provided to the Principal Certifier prior to the issue of an Occupation Certificate.
- 69) Easements for utilities and services, in favour of the lots benefiting and/or Council shall be provided where services are located on private properties and/or overland flows traverse private property, in accordance with the current version of Council's Engineering Design Minimum Standards for Subdivisions and Developments.
- 70) Prior to the issue of an Occupation Certificate, a 3m wide 100mm thick boundary line non-slip reinforced concrete shared footpath complete with pram ramps and jointed in accordance with Council's Standard Drawing Suite shall be constructed the entire length of the southern and western street frontages of the development site. The works are to be completed at full cost to the developer.
- 71) To ensure that the required Fire Safety Measures are provided in accordance with the building's use and operating in accordance with the appropriate standards, the owner of the building must cause a copy of a Final or Interim Fire Safety Certificate to be given to the person issuing the Occupation Certificate in accordance with Clause 84 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 for each measure listed in the fire safety schedule. The certificate must only be in the form specified by Clause 86 of the Regulation. A copy of the certificate is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building. Email address for lodgement of Fire Safety Certificate is - firesafety@fire.nsw.gov.au
- 72) Prior to the issue of an Occupation Certificate, an Identification Survey prepared by a Registered Surveyor shall be provided to the Certifier to confirm that the development has been sited in accordance with the approved plans.
- 73) Prior to the issue of an Occupation Certificate, the Principal Certifier must be satisfied that all landscaping within the development site and the adjoining Lot 1820 in DP 1122162 has been completed in accordance with the approved plans.
- 74) Prior to issue of any Occupation Certificate, evidence from NSW Land Registry Services shall be submitted to Council confirming that the Restriction on the Use of Land relating to an existing building envelope affecting Lot 1 in DP 1304039 has been removed.
- 75) Prior to issue of any Occupation Certificate, evidence shall be submitted to Council confirming that proposed Lot 201, 202 and Part Lot 203 in the plan of subdivision of Lot 1 in DP 1304039, has legally been created by the registration of subdivision plan(s) under DA2023-0308 or as modified, with NSW Land Registry Services. In addition, the allotments shall be consolidated into a single allotment.
- 76) Prior to the issue of an Occupation Certificate, evidence must be provided to the Certifier to confirm that the Crime Prevention Through Environmental Design (CPTED) recommendations contained in the Statement of Environmental Effects (prepared by Barr Planning and dated 12 February 2025) have been implemented for the development.
- 77) Prior to the issue of an Occupation Certificate, certification shall be provided by

a suitably qualified person and submitted to the Certifier to confirm that the onsite lighting complies with AS/NZS 1158.3 Pedestrian Area (Category P) Lighting and AS4282 Control of Obtrusive Effects of Outdoor Lighting.

- 78) *Prior to the issue of an Occupation Certificate, a Bush Fire Emergency Management and Evacuation Plan must be prepared and be consistent with the NSW RFS document: A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan and Australian Standard AS 3745:2010 Planning for emergencies in facilities.*
- 79) *Prior to the issue of an Occupation Certificate, an Operational Management Plan (OMP) must be prepared for the day-to-day operations of the site and submitted to Council's Director of Liveable Communities for approval. The OMP must include, but is not limited to, the following matters:*
 - a) *day to day operations;*
 - b) *security and safety plan;*
 - c) *landscaping maintenance;*
 - d) *traffic and parking management plan that encompasses:*
 - (i) *the timing of deliveries to the site to ensure that there is no conflict between customer and delivery vehicles; and*
 - (ii) *a review process of the layout and operation of the carpark, should Council or the owner receive any valid complaints regarding its operation;*
 - e) *details of complaints and resolution process; and*
 - f) *bushfire emergency management and evacuation.*
- 80) *All works as required by these conditions of consent shall be completed.*

Post-Occupation Review - Traffic and Pedestrian Survey

- 81) *Within 12 months of the issue of the Occupation Certificate, the proponent must conduct a post-construction traffic and pedestrian survey of the Goonoo Goonoo Road/Craigends Lane intersection and associated pedestrian crossing facilities.*

If this review indicates that the intersection or pedestrian facility fails to meet the required performance or safety standards, the proponent must submit appropriate upgrades or redesigns to Council and TfNSW for approval, implement the approved changes (at no cost to Council), and submit a further modification to the Development Consent where required.

Ongoing Use

- 82) *The sealing and ongoing operation to all crossovers, vehicular parking, manoeuvring and loading areas with the site shall be maintained at all times. Council is not responsible for the effective operation of a carpark on private property.*
- 83) *The largest vehicle permitted to access the site is a 20m articulated vehicle.*
- 84) *The landscaped areas of the development site shall be maintained at all times in accordance with the approved landscaping plan. Any vegetation within the*

easement of the 66kv overhead infrastructure must not exceed 4m in height when mature.

- 85) *Vehicles shall be loaded or unloaded, standing wholly within the development site and within loading zones designated on the submitted plans with the development application, or as otherwise provided in accordance with the conditions of this consent, to ensure that the proposed development does not give rise to street loading or unloading operations with consequential accident potential and reduction in road efficiency. Under no circumstances are vehicles to be loaded or unloaded at the kerb side or across the public footpath.*
- 86) *All vehicle movements into and out of the development site shall be in a forward direction.*
- 87) *To ensure that the required parking, loading/unloading facilities and associated driveways are able to function efficiently for their intended purpose, proposed parking areas, service bays, truck docks, driveways, vehicular ramps and turning areas shall be maintained clear of obstruction and be used exclusively for their intended purpose. Under no circumstances are such areas to be used for the storage of goods or waste material.*
- 88) *The on-site stormwater systems shall be maintained at all times so as to ensure their effective operation for their intended purpose.*
- 89) *The operation of this development must not produce noise levels greater than 5dB(A) above background levels (when measured as an LAeq(15 min) at the most affected point on or within the property boundary of any residential receptor).*
- 90) *The Applicant shall ensure that all activities associated with the operation business are conducted in accordance with Section 120 of Protection of the Environment Operations Act 1997. Wastewater must not be allowed to drain to stormwater drains, street gutters or any waterway (even when washing with water only). All washing and cleaning should be carried out within a wash bay that is either connected to the sewer under a trade waste agreement or fitted with a water treatment and recycling system.*
- 91) *All signage shall be maintained in good structural condition, kept clean, neatly painted and be of a professional standard of design and appearance. Should any signage become redundant, such signage shall be removed immediately.*
- 92) *The signage approved by this consent must comply with the following requirements:*
 - a) *the signage is for the purpose of business identification signage and building identification signage, as defined under the Tamworth Regional Local Environmental Plan 2010;*
 - b) *images must not be capable of being mistaken for a prescribed traffic control device and/or text providing driving instructions to drivers; and*
 - c) *luminance levels must comply with ambient environmental lighting requirements under Section 3 of the Department of Planning and Environment's Transport Corridor Outdoor Advertising and Signage Guidelines.*
- 93) *At the commencement of building works and in perpetuity, the area around the*

buildings to the property boundaries shall be managed as an Asset Protection Zone in accordance with the requirements of Appendix 4 of 'Planning for Bushfire Protection 2019'.

- 94) ***The Bushfire Emergency Management and Evacuation Plan shall be adhered to at all times.***
- 95) ***The approved hours of operation for the development are as follows:***
 - (i) Specialised retail premises (Tenancy 1 and Tenancy 2/LRF 1 and LFR 2):***
 - Monday to Friday: 7:00am to 9:00pm***
 - Saturdays: 8:00am to 8:00pm***
 - Sundays: 8:30am to 8:00pm***
 - (ii) Shop (Tenancy 3):***
 - Monday to Sunday: 8:30am to 8pm***
 - (iii) Shop (Tenancy 4):***
 - Monday, Tuesday, Wednesday and Friday: 9am to 5:30pm***
 - Thursday: 9am to 7pm***
 - Saturday: 9am to 5pm***
 - Sunday: 10am to 5pm.***

Advisory Note(s)

- (i) ***Clause 89 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, requires the owner of a building to which an essential fire safety measure is applicable to maintain each essential fire safety measure as identified by virtue of a fire safety schedule, to a standard no less than that specified in the schedule inclusive of the entire building.***
- (ii) ***Within each 12 months after completion of the building, the owner of the building must cause Council to be given an annual fire safety statement in accordance with Clause 89 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, for each measure listed in the schedule for the entire building. The statement must only be in the form specified by Clause 92 of the Regulation. A copy of the statement is to be given to the Commissioner of the New South Wales Fire Brigade. Email address for lodgement of Annual Fire Safety Statement – Annual Fire Safety Statement Form - Fire and Rescue NSW and a copy must be submitted to Council development@tamworth.nsw.gov.au***
- (iii) ***At all times, a copy of the Fire Safety Schedule and Fire Safety Certificate must be prominently displayed in the buildings.***
- (iv) ***Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.***
- (v) ***It is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice –***

Work near Overhead Power Lines and Code of Practice – Work near Underground Assets. Information relating to developments near electrical infrastructure is available on Essential Energy's website: Development Applications (essentialenergy.com.au).

(vi) *A distance of 15.0m from the nearest part of the development to Essential Energy's 66kv overhead infrastructure (measured horizontally) is required to ensure that there is no safety risk. No significant structures including the proposed shade sails over the car parking spaces are to be constructed within the 66kv powerline easement.*

APPLICATION DETAILS:

Application No.	DA2025-0287
Application For:	Construction of Specialised Retail Premises, Shops and Associated Works
Date Received:	12 February 2025
Applicant:	Goonoo Goonoo Road Pty Ltd c/- Barr Planning
Owner:	Goonoo Goonoo Road Pty Ltd
Land/Address:	Lot 1 in DP 1304039 – 408 Goonoo Goonoo Road HILLVUE NSW 2340 (future Lots 201, 202 and Part Lot 203).
Zoning:	E3 Productivity Support - <i>Tamworth Regional Local Environmental Plan 2010</i>

DEVELOPMENT ASSESSMENT SUMMARY

The proposed development involves the construction of a specialised retail premises, shops and associated works. The proposal is located within the E3 Productivity Support zone under the *Tamworth Regional Local Environmental Plan 2010* (TRLEP) and is permissible with consent.

DA2025-0287 has been referred to Council for determination as the proposed development seeks a variation of more than 10% to a numerical development standard under the Tamworth Regional Local Environmental Plan (TRLEP). The applicant has submitted a Clause 4.6 (of the TRLEP) written request to vary the development standard pertaining to the 2,500m² gross floor area (GFA) of shops under Clause 7.4 of the TRLEP. The proposed shops will have a combined GFA of 3,626m² and therefore exceeds the development standard by 1,126m² or 45% based on Council's GFA calculations.

In considering the applicant's request, it is relevant to note that Council has previously approved an amendment to the TRLEP that proposes to increase the development standard in Clause 7.4 from 2,500m² to 3,500m². Once this increase is gazetted, the current Clause 4.6 request would only involve a minor variation to the maximum GFA of 3,500m² being 1.14% based on the applicant's GFA calculations or 3% using Council's GFA calculations.

The subject development is also affected by a State Government imposed transitional period that expires on the 26 April 2025. The two year transitional period followed the government's employment zone reforms in 2023, which has the effect of making the proposed shop uses in Tenancies 3 and 4, (which are currently permissible), prohibited uses within the subject zone after 26 April 2025. Hence, the requirement to present this report and recommendation to an Extraordinary Meeting of Council before the next regular scheduled Ordinary Council Meeting on the 29 April 2025.

The proposed development has been assessed to be compliant with relevant planning legislation, State Environmental Planning Policies, the TRLEP and the Tamworth Regional Development Control Plan. It is recommended that Council grant approval to DA2025-0287 subject to the attached conditions of consent.

DESCRIPTION OF PROPOSAL:

DA2025-0287 (PAN-508694) seeks development consent for the construction of a specialised retail premises, shops and associated works on Lot 1 in DP 1304039 – 408 Goonoo Goonoo Road, Hillview. In particular, the proposed development will include the following works:

- Construction of two buildings:
 - one situated towards the west of the site containing two tenancies (Tenancy 1 and Tenancy 2) and use for the purpose of a specialised retail premises (i.e. bulky goods); and
 - one situated towards the east of the site containing two tenancies (Shop 1/Tenancy 3 and Shop 2/Tenancy 4) and use for the purpose of shops.
- Landscaping, carparking, fencing, signage and retaining walls.

Access to and from the proposed development will be gained via a new internal road into the Goonoo Goonoo precinct.

Tenancy 3 is expected to require up to 20 staff. The number of staff for the remaining tenancies is unknown at this stage.

The proposed hours of operation are as follows:

- Specialised retail premises (Tenancy 1 and Tenancy 2):
 - Monday to Friday: 7:00am to 9:00pm
 - Saturdays: 8:00am to 8:00pm
 - Sundays: 8:30am to 8:00pm
- Shop (Tenancy 3):
 - Monday to Sunday: 8:30am to 8pm
- Shop (Tenancy 4):
 - Monday, Tuesday, Wednesday and Friday: 9am to 5:30pm
 - Thursday: 9am to 7pm
 - Saturday: 9am to 5pm
 - Sunday: 10am to 5pm.

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

REFERRALS:

The subject Development Application (DA) was referred internally to Council's Building Certification Team, Water and Waste Directorate, and Development Engineering Division. No objections were raised by the internal referrals subject to compliance with the recommended conditions of approval.

DA2025-0287 was also referred externally to Transport for NSW (TfNSW) and Essential Energy. The responses from the aforementioned agencies are discussed in a later section of this report.

The applicant has not nominated the proposed development as being an integrated development under Division 4.46 of the *Environmental Planning and Assessment Act 1979*. That is, the proposal has not been identified as needing other approvals from Government agencies, such as an approval from the Department of Planning, Housing and Infrastructure for a controlled activity approval under the *Water Management Act 2000*. In this regard, the subject DA was not required to be referred to any external Government agencies for their General Terms of Approval under the integrated development provisions.

SUBJECT SITE AND LOCALITY MAP:

The subject land, being Lot 1 in DP 1304039, is located on the eastern side of Goonoo Goonoo Road (see **Figure 1**). The site is approximately 54.47 hectares and will be further subdivided into 35 allotments under DA2023-0308, as modified. The proposed development will be situated on future Lots 201 and 202 and Part Lot 203, which are located in the north western portion of the site.



Figure 1. Aerial map of the subject land, Lot 1 in DP 1304039 – 408 Goonoo Goonoo Road, HILLVUE NSW 2340.

ASSESSMENT REPORT:

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

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021:

- *Chapter Two: Vegetation in non-rural areas*

Chapter Two of *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, aims to protect the biodiversity and amenity values of trees and other vegetation within non-rural areas of the State. This Policy applies to the proposed development pursuant to Section 2.3.

The provisions under Part 2.3 of this Policy have been considered. As such, the proposed development does not seek to undertake any additional clearing outside that considered as part of the subdivision (DA2023-0308). Therefore, no further consideration of Chapter Two is required.

State Environmental Planning Policy (Resilience and Hazards) 2021:

Section 4.6 of the *State Environmental Planning Policy (Resilience and Hazards) 2021*, states that the issue of contamination and remediation is to be assessed as part of the determination of a Development Application (DA). The issue of contamination and

remediation has also been considered as part of the subdivision (DA2023-0308). The Preliminary Site Investigation report submitted with DA2023-0308 found that the site presents a low risk for contamination and the asbestos containing material within the existing structures on the land could be managed subject to conditions, which were included in the development consent for DA2023-0308. It is therefore considered that the site is suitable for the purposes of the proposed development and no further investigation is required.

State Environmental Planning Policy (Transport and Infrastructure) 2021:

- *Clause 2.48 – Development likely to affect an electricity transmission or distribution network*

Pursuant to Clause 2.48 of the Policy, given that the development is carried out adjacent to an easement for electrical purposes and within 5m of an overhead electrical line, the DA was referred to Essential Energy for comment. Essential Energy responded to Council's referral on 28 February 2025, with the following comments:

- 1) *As the plans provided do not show the distances from Essential Energy's infrastructure and the development, there may be a safety risk. A distance of 15.0m from the nearest part of the development to Essential Energy's 66kv overhead infrastructure (measured horizontally) is required to ensure that there is no safety risk.*
- 2) *No significant structures including the proposed shade sails over the car parking spaces are to be constructed within the 66kv powerline easement.*
- 3) *Any proposed vegetation within the easement of the 66kv overhead infrastructure must not exceed 4m in height when mature.*
- 4) *It is also essential that all works comply with SafeWork clearance requirements. In this regard it is the responsibility of the person/s completing any works to understand their safety responsibilities. The applicant will need to submit a [Request for Safety Advice](#) if works cannot maintain the safe working clearances set out in the [Working Near Overhead Powerlines Code of Practice](#), or [CEOP8041 - Work Near Essential Energy's Underground Assets](#).*

In response to dot points numbered 1) and 2) above, the shade sails within the powerline easement have been removed from the Architectural plans. The applicant has advised that the width of the easement is 24.385m and the proposed buildings are located outside of the easement. In addition, the applicant has stated that an assessment by Power Solutions will be submitted as a part of a Network Encroachment Request to Essential Energy and the outcomes will be provided to Council prior to the issue of a Construction Certificate, which forms a recommended condition of consent. The other matters raised by Essential Energy under dot points numbered 3) and 4) have also been incorporated into the recommended conditions of consent.

- *Clause 2.119 – Development with frontage to a classified road*

This Clause requires the consent authority to consider the impact of development on land with frontage to a classified road. Accordingly, development consent must not be granted unless the consent authority is satisfied:

- a) *where practicable and safe, vehicular access to the land is provided by a road other than the classified road; and*
- b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - i) *the design of the vehicular access to the land; or*

- ii) the emission of smoke or dust from the development; or*
 - iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land; and*
- c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

In response to the above:

- a) Goonoo Goonoo Road forms part of the New England Highway (HW9), which is a classified (State) road. The proposed development will gain access from Goonoo Goonoo Road/New England Highway via a new upgraded intersection off Craigends Lane and a new internal road within the Goonoo Goonoo Road Commercial Lands Precinct. The site access to the precinct was forecast as a part of the rezoning process and translates as controls in the Site-Specific Chapter in the TRDCP;*
- b) a Transport Impact Assessment (TIA) and responses to Council's requests for additional information prepared by consultants Ason Group have been provided with the DA to address the potential impacts from the development. The TIA advises that neither the design of vehicular access to the land nor the nature, volume or frequency of vehicles using the classified road to gain access to the land will adversely affect the considerations under this Clause. Further commentary regarding traffic is provided in later sections of this Report;*
- c) the proposed development is for the purpose of specialised retail premises and shops – both of which are not expected to produce significant smoke or dust emissions during operations. It is likely that the proposed development will generate some dust emissions during the construction phase. However, such emissions can be mitigated to minimise adverse impacts. In this regard, a recommended condition has been imposed requiring dust control measures to be put in place during works; and*
- d) the proposed development is not sensitive to traffic noise or vehicle emissions that may arise from the adjacent classified road.*

- *Clause 2.122 – Traffic-generating development*

Pursuant to Clause 2.122 and Schedule 3 of this Policy, the proposal constitutes a traffic generating development as it involves the development of shops with a gross floor area of at least 2,000m² and a carpark with more than 200 spaces. The subject DA was therefore referred to TfNSW for advice under this Clause.

Comments were received from TfNSW following a review of the information submitted upon lodgement of the DA. The response is provided below:

- 1) TfNSW understands the proposed development is reliant upon the construction of a roundabout at the intersection of Goonoo Goonoo Road and Craigends Lane, as required by development consents DA2023-0308 and DA2023-0354 for the land. No interim access arrangements are proposed for the development.*
- 2) The analysis provided enables TfNSW to be satisfied the roundabout is an appropriate treatment for this intersection. Therefore, should Council approve the development, the conditions of any development consent should require the construction of the roundabout prior to development traffic being realised on the road network, i.e. prior to the release of the Occupation Certificate.*

Alternatively, if interim access arrangements are proposed to facilitate access to the development prior to the roundabout being operational, these should be supported by a strategic design and traffic modelling. This will ensure that the proposed delivery triggers and timing of the identified road infrastructure are suitable and appropriate.

3) *No modelling of the proposed entry/exit to the development (50m east of the Goonoo Goonoo Road intersection) has been provided to demonstrate there will be no queuing back to Goonoo Goonoo Road. TfNSW understand that the proponent has investigated access to create a fourth leg on the proposed new local road roundabout, however this was not a viable option for the proponent.*

Where Council is satisfied that safe and practicable access cannot be achieved from a fourth leg to the proposed new local road roundabout, TfNSW recommends that the proposed entry/exit to the development:

- a) *be located as far east as possible,*
- b) *provide an auxiliary left-turn lane into the development on the local road, and*
- c) *restrict right turn in/out of the development with the installation of a central median.*

4) *Pedestrian and cycling facilities should link the development to existing public transport facilities along the classified road. This should include suitable facilities to enable pedestrians and cyclists to safely cross Goonoo Goonoo Road.*

5) *The NSW Government has set a vision to reach zero emissions by 2050 and making investments into electric vehicles and services will help us reach our goal.*

6) *Towards achieving the 3 priority areas in the NSW Electric and Hybrid Vehicle Plan, TfNSW supports the proposed provision of EV facilities. Subdivision 3 of the Transport and Infrastructure SEPP identifies the locations and relevant considerations for approval and installation of EV facilities.*

Council's response to the above:

1) Although both the TIA and TfNSW indicate that the roundabout at the intersection between Goonoo Goonoo Road and Craigends Lane is an appropriate intersection treatment, Council's analysis of the TIA has found the following:

- a) Weekend peak traffic and future large traffic generating developments within the Longyard Precinct locality have not yet been modelled;
- b) The traffic volumes used in the TIA are *lower* than those used by TfNSW and Council;
- c) The timing for the delivery of the Goonoo Goonoo Road upgrades is unknown at this stage; and,
- d) Pedestrian and cyclist safety may prove difficult to achieve for a dual lane roundabout intersection.

Based on the above, the recommended conditions have been imposed in such a way to enable further technical review to be undertaken post determination. This will involve submission of a warrants assessment, strategic design and updated modelling for approval by Council and TfNSW prior to the commencement of works within the Goonoo Goonoo Road reserve. Further, a condition of consent has also been

recommended requiring the intersection between Goonoo Goonoo Road and Craigends Lane to be upgraded prior to the issue of an Occupation Certificate. The intent of this approach is to ensure that the best design outcome is achieved for the development at this intersection.

A requirement for a 3m wide shared footpath to be constructed along the western and southern street frontages of the site as part of the development forms a recommended condition of consent. The footpath will help to provide pedestrian linkages between the site and Goonoo Goonoo Road.

- 2) In response to Council's requests for additional information, the applicant has advised that an access to the subject site from a fourth leg off the new internal proposed local road roundabout is not a practical option for the following reasons:
 - a) it does not achieve the necessary parking supply – both for the overall site and for each tenancy;
 - b) the main access dissects the site and separates the tenancies, hence reducing site efficiency and customer satisfaction;
 - c) service vehicles, including 20m articulated vehicles, would need to use the same single access when accessing the loading dock to the north; and
 - d) the difference in levels, combined with the spatial impact on the site result in no opportunity for an access in this location. There are no such constraints (or significantly less) at the proposed site access driveways.
- 3) The Statement of Environmental Effects (SEE) advises that provision for EV charging spaces can be made available on the site subject to detailed design. A condition of consent has been included in the recommended conditions requiring EV charging capability to be included in the carpark.

State Environmental Planning Policy (Planning Systems) 2021:

The threshold for regionally significant development is more than \$30,000,000 for general development under Clause 2 Schedule 6 of this Policy. The Estimated Development Cost prepared by WT Partnership and dated 6 February 2025, advises that the cost of the proposal is \$22,900,000 (excluding GST). In this regard, the proposed development does not trigger regionally significant development under this Policy.

State Environmental Planning Policy (Sustainable Buildings) 2022:

State Environmental Planning Policy (Sustainable Buildings) 2022, aims to encourage the delivery of sustainable buildings that minimises energy consumption, reduce greenhouse gasses and provide for good thermal performance. The applicant has submitted an ESD Report prepared by EMF Griffiths and a NABERS Embodied Emissions Materials Form to address the provisions under this Policy.

Clause 3.2 of the Policy applies to non-residential developments exceeding \$5 million in estimated cost. Given that the proposed development falls within this threshold, the provisions of this Chapter are applicable and require the consent authority to take into consideration the following matters:

- (a) *the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials,*

Comment: The ESD report states that the project's initiatives to reduce waste will include choosing building fabric materials for the development that could be prefabricated off site and

establishing targets to reduce construction waste. The report also notes that, as the site does not contain any existing buildings, there will be minimal demolition waste.

(b) *a reduction in peak demand for electricity, including through the use of energy efficient technology,*

Comment: The ESD report advises that all building (mechanical and electrical) services will be designed to comply with Section J under the NCC 2022 and will be considered, subject to detailed design of the Project. Such measures will include use of energy efficient mechanical equipment, automated controls and LED lighting.

(c) *a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,*

Comment: The ESD report states that the project has considered building orientation and shading, limited the use of glazing on the east and west facade, and considered the use of lightweight construction and thermal mass for walls in order to enhance the passive design of the building.

(d) *the generation and storage of renewable energy,*

Comment: The ESD report advises that solar hot water systems will be provided where practical and spatial provision for future PV system will also be implemented to reduce operational greenhouse gas emissions. The electrical design will also allow for future installation of solar batteries and EV charging infrastructure.

(e) *the metering and monitoring of energy consumption,*

Comment: The ESD report states that major energy uses will be sub-metered by end use or function area. Energy and water meter monitoring systems will also be installed to provide real-time energy and water consumption readings.

(f) *the minimisation of the consumption of potable water.*

Comment: Highly water efficient WELS rated fixtures and fittings are to be implemented as a part of the development. Specification of fittings will be confirmed in the detailed design. Provision of rainwater tanks will be provided for reuse. Water efficient drip irrigation systems will be incorporated along with drought tolerant plant species to further reduce the need for landscape irrigation.

The proposal is therefore considered consistent with the applicable Policy provisions. It is recommended that a condition of consent is imposed that requires the development be designed and constructed to ensure the embodied emissions attributable to the project capture no less than 80% of material costs for the structure, envelope, and external works.

State Environmental Planning Policy (Industry and Employment) 2021:

Chapter 3 of this Policy applies to all signage that can be displayed with or without development consent and is visible from any public place or public reserve. The proposed development will include the installation of signage as identified on the architectural plan set. The SEE advises that the logos, colours and finishes are not known as the tenants for the buildings have not been finalised.

Pursuant to Clause 3.6 and 3.11 of this Policy, Council must not grant development consent to an application to display signage unless it is satisfied:

a) *that the signage is consistent with the objectives of this Chapter as set out in section 3.1(1)(a); and*

Comment: It is considered that the proposed signage will be consistent with the objectives of this Chapter. The proposed signage will be compatible with the desired amenity of the area, provides effective communication, and will be of high-quality finish and design. A condition has been imposed to ensure that the signage is maintained in good order for the life of the development.

b) *that the signage the subject of the application satisfies the assessment criteria specified in Schedule 5 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts; and*

Comment: Council is satisfied that the proposed signage meets the assessment criteria under Schedule 5 of this Policy. This assessment is presented in **Table 1** below:

Assessment Criteria	Comment
1 Character of the area	
<ul style="list-style-type: none"> <i>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</i> <i>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</i> 	Yes. It is considered that the proposal is compatible with the desired future character of the Goonoo Goonoo precinct. There is currently no existing theme for outdoor advertising in the area (Goonoo Goonoo precinct).
2 Special areas	
<ul style="list-style-type: none"> <i>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</i> 	No. There are no environmentally sensitive, heritage or conservation areas on, or in proximity to, the subject land. The proposed signage will not completely occupy the views to adjoining rural and residential areas or Goonoo Goonoo Creek.
3 Views and vistas	
<ul style="list-style-type: none"> <i>Does the proposal obscure or compromise important views?</i> <i>Does the proposal dominate the skyline and reduce the quality of vistas?</i> <i>Does the proposal respect the viewing rights of other advertisers?</i> 	The proposed signage does not obscure important views or dominate the skyline. Furthermore, the proposal will respect the viewing rights of other advertisers.
4 Streetscape, setting or landscape	
<ul style="list-style-type: none"> <i>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</i> 	The proposed signage is considered to be appropriate to streetscape and setting and contributes to visual interest.

<ul style="list-style-type: none"> • Does the proposal contribute to the visual interest of the streetscape, setting or landscape? • Does the proposal reduce clutter by rationalising and simplifying existing advertising? • Does the proposal screen unsightliness? • Does the proposal protrude above buildings, structures or tree canopies in the area or locality? • Does the proposal require ongoing vegetation management? 	<p>The proposal does not screen unsightliness and there is no existing signage on the site.</p> <p>Landscaping on the site will be maintained during operations for both security and amenity purposes, which forms a recommended condition of consent.</p>
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5 Site and building

<ul style="list-style-type: none"> • Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? • Does the proposal respect important features of the site or building, or both? • Does the proposal show innovation and imagination in its relationship to the site or building, or both? 	<p>Yes. The proposed signage is considered compatible with the scale, proportion and characteristics of the buildings.</p>
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6 Associated devices and logos with advertisement and advertising structures

<ul style="list-style-type: none"> • Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed? 	<p>Yes. The SEE advises that the signs will be internally lit with brightness controlled to adjust to ambient light conditions.</p>
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7 Illumination

<ul style="list-style-type: none"> • Would illumination result in unacceptable glare? • Would illumination affect safety for pedestrians, vehicles or aircraft? • Would illumination detract from the amenity of any residence or other form of accommodation? • Can the intensity of the illumination 	<p>Illumination of the proposed signage is not expected to result in unacceptable glare, safety or amenity impacts. The luminance levels of the proposed signage will be controlled to comply with the <i>Transport Corridor Outdoor Advertising and Signage Guidelines</i>, which forms a condition of consent. Illumination is not expected to detract from any residence or other form of</p>
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<p><i>be adjusted, if necessary?</i></p> <ul style="list-style-type: none"> • <i>Is the illumination subject to a curfew?</i> 	<p>accommodation. The SEE advises that illumination can be reduced outside of operating hours.</p>
<p>8 Safety</p>	
<ul style="list-style-type: none"> • <i>Would the proposal reduce the safety for any public road?</i> • <i>Would the proposal reduce the safety for pedestrians or bicyclists?</i> • <i>Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</i> 	<p>No. The proposed signage will be confined to the boundaries of the subject land and will not obscure sightlines from public areas. Finally, the signage will be located clear of shared pedestrian and bicycle paths.</p>

Table 1. Assessment of Schedule 5 Criteria.

c) satisfies any other relevant requirement of this Chapter.

Comment: The SEE advises that the proposed signage constitutes building identification signs and business identification signs. Section 3.7 of this Policy states that the provisions under Part 3.3 of this Policy applies to all signage other than business identification signs and building identification signs. No further assessment is required in this regard.

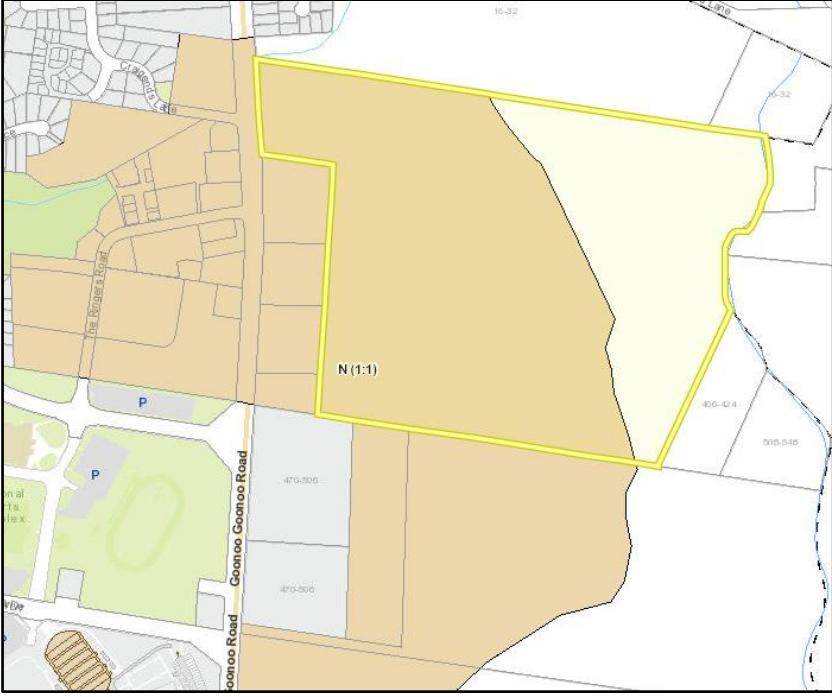
Tamworth Regional Local Environmental Plan 2010:

The *Tamworth Regional Local Environmental Plan 2010* (TRLEP), applies to the proposed development. An assessment against the relevant provisions under the TRLEP is presented in **Table 2** below:

Clause	Comment
1.2 – Aims of plan	The proposed development complies with applicable aims of the TRLEP.
2.1 – Land use zones	The development site is located within the E3 Productivity Support zone under the TRLEP.
2.3 – Zone objectives	The consent authority must have regard to the relevant zone objectives in determining a DA (see Land Use Table provisions, below).
Land use table	<p>In the TRLEP's Land Use Table, the objectives for the E3 zone are:</p> <ul style="list-style-type: none"> • <i>To provide a range of facilities and services, light industries, warehouses and offices.</i> • <i>To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.</i> • <i>To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.</i>

	<ul style="list-style-type: none"> • <i>To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.</i> • <i>To provide opportunities for new and emerging light industries.</i> • <i>To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site.</i> • <i>To enable a mix of business and warehouse uses, and specialised retail premises that require a large floor area, in locations that are close to, and that support the viability of, centres.</i> <p>It is considered that the proposed development is consistent with the applicable zone objectives. The proposed development will provide uses that are compatible, but do not compete, with surrounding commercial centres. The Economic Impact Assessment (EIA) memorandum prepared by GapMaps to accompany the DA supports this statement and is discussed in more detail in Section 4.15(1)(b) of this Report. Furthermore, it is considered that the proposal satisfies the sixth objective through the provision of services to meet the needs of workers.</p>
Permissibility	<p>The proposed development includes ‘shops’ and ‘specialised retail premises’. The TRLEP defines these land use terms of follows:</p> <p>shop means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop and neighbourhood supermarket, but does not include food and drink premises or restricted premises.</p> <p>Note—</p> <p>Shops are a type of retail premises—see the definition of that term in this Dictionary.</p> <p>retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following;</p> <p class="list-item-l1">(a), (b) (Repealed)</p> <p class="list-item-l1">(c) food and drink premises,</p> <p class="list-item-l1">(d) garden centres,</p> <p class="list-item-l1">(e) hardware and building supplies,</p> <p class="list-item-l1">(f) kiosks,</p> <p class="list-item-l1">(g) landscaping material supplies,</p> <p class="list-item-l1">(h) markets,</p> <p class="list-item-l1">(i) plant nurseries,</p> <p class="list-item-l1">(j) roadside stalls,</p>

	<p>(k) <i>rural supplies</i>,</p> <p>(l) <i>shops</i>,</p> <p>(la) <i>specialised retail premises</i>,</p> <p>(m) <i>timber yards</i>,</p> <p>(n) <i>vehicle sales or hire premises</i>,</p> <p><i>but does not include farm gate premises, highway service centres, service stations, industrial retail outlets or restricted premises.</i></p>
	<p>Note—</p> <p><i>Retail premises are a type of commercial premises—see the definition of that term in this Dictionary.</i></p> <p>specialised retail premises means a building or place the principal purpose of which is the sale, hire or display of goods that are of a size, weight or quantity, that requires—</p> <p>(a) <i>a large area for handling, display or storage, or</i></p> <p>(b) <i>direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire,</i></p> <p><i>but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale, hire or display of other goods referred to in this definition.</i></p> <p>Note—</p> <p><i>Examples of goods that may be sold at specialised retail premises include automotive parts and accessories, household appliances and fittings, furniture, homewares, office equipment, outdoor and recreation equipment, pet supplies and party supplies.</i></p> <p><i>Specialised retail premises are a type of retail premises—see the definition of that term in this Dictionary.</i></p> <p>Prior to 26 April 2023, the subject land was zoned B5 Business Development wherein ‘retail premises’ and ‘shops’ were permitted with consent.</p> <p>Although ‘retail premises’ are specified as being prohibited under Item 4 in the land use table for the now relevant E3 zone, the proposal is permitted with consent due to the transitional provisions under Schedule 1 Part 2 of the <i>Standard Instrument Local Environmental Plan Order – 2006</i>, allowing the continuation of permitted development (see below extract). In turn, the proposed associated infrastructure and ancillary development is also permitted with consent as they will be subordinate to another permitted use (shops) and specialised retail premises.</p> <p>5 Continuation of permitted development</p> <p><i>Development that is permitted with development consent on land in a former zone under a local environmental plan, as in force immediately before 26 April 2023, continues to be permitted with development consent</i></p>

	<p>on the land until 26 April 2025.</p> <p>former zone means Zone B1, B2, B3, B4, B5, B6, B7, B8, IN1, IN2, IN3 or IN4.</p> <p>new zone means Zone E1, E2, E3, E4, E5, MU1, SP4, SP5 or W4.</p>
Clause 4.4 and Clause 4.5 'Floor Space Ratio'	<p>Clause 4.4 of the TRLEP specifies that the maximum floor space ratio for a building on any land shall not exceed the floor space ratio shown on the Floor Space Ratio (FSR) Map. The FSR Map nominates a 1:1 ratio for the subject land (see Figure 2), which has not been exceeded by the development. The FSR for proposed development is calculated as 0.30:1</p> 
Clause 4.6 – Exceptions to Development Standards	<p>Clause 4.6 of the TRLEP aims to provide an appropriate degree of flexibility in applying certain development standards to particular developments in order to achieve better outcomes for, and from, development. Council may grant consent under this Clause even though the development would contravene a development standard, providing that it is not excluded under Clause 4.6(8).</p> <p>The Applicant has submitted a written Clause 4.6 request seeking a variation to the development standard pertaining to the gross floor area (GFA) of shops under Clause 7.4 of the TRLEP. Based on Council's calculations, the proposed shops will have a combined GFA of 3,626m²* and therefore exceed the development standard by 1,126m² or 45%. It is noted that Clause 7.4 is not excluded from the operation of Clause 4.6 (8). In this regard, Council can consider the request.</p> <p><u>*Note 1:</u> GFA per definition under the TRLEP. Includes staff facilities and amenities but excludes Back of House (BOH).</p>

	<p>Clause 7.4 of the TRLEP states as follows:</p> <p>1) <i>The objective of this clause is to ensure that proposed business premises, office premises, cellar door premises, food and drink premises, markets and shops are located within the Tamworth CBD and other local centres in the region, other than in Zone E1, E3 or MU1.</i></p> <p>2) <i>Development consent must not be granted to development for the purposes of business premises, office premises, cellar door premises, food and drink premises, markets or shops on land in Zone E1, E3 or MU1 if the development would result in a building or premises having a gross floor area of more than 2,500 square metres.</i></p> <p>The key takeaway points from the Applicant's written request are as follows:</p> <ul style="list-style-type: none">• the Environmental Planning and Assessment Act 1979 (EPA Act) defines that a development standard includes the cubic content or floor space of a building. In turn, the development standard to be varied is the GFA of 2,500m² under Clause 7.4 of the TRLEP;• prior to 26 April 2023, the subject land was zoned B5 Business Development under the TRLEP wherein 'retail premises' and 'shops' were permitted with consent. At this same point of time, Clause 7.4 of the TRLEP only applied to development for the purpose of business premises, office premises, cellar door premises, food and drink premises, market or shops located in the B1 or B4 zones;• on 26 April 2023, the TRLEP was amended as a result of the NSW Department of Planning and Environment's employment zone reforms. The reforms aimed to consolidate the existing industrial and business zones across the State with five new zones. Consequently, the zoning of the subject land changed from B5 to E3, and Clause 7.4 was amended to apply to the E1, E3 and MU1 zones;• the proposed development is considered to be consistent with the objectives of the E3 zone;• the proposed development meets the objects (c), (g) and (h) of the Environmental Planning and Assessment Act 1979 (EPA Act) which relate to the orderly and economic use of land, good design and amenity of the built environment, and the proper construction and maintenance of buildings;• the Applicant notes that Council commissioned the Tamworth Activity Centre Review 2023 (TACR 2023) to investigate the existing commercial centre hierarchy and consider future commercial floorspace requirements (including shops and bulky goods) relative to population growth. This review identified an undersupply of traditional retail GFA of up to 44,000m² as the population reaches 80,000. <p>The TACR 2023 informed the recent review of the TRLEP 2010,</p>
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	<p>which seeks to increase the development standard under Clause 7.4 from 2,500m² to 3,500m² based on the following rationale:</p> <ul style="list-style-type: none">○ the increase will not have a determining impact on the CBD;○ to better reflect changing trends in commercial development in the last 14 years;○ to support the anticipated population growth of Tamworth; and○ to be consistent with Blueprint 100; Part 2: LSPS and Tamworth Tomorrow Strategy 2022. <ul style="list-style-type: none">● the Applicant has relied on the first approach established by the NSW Land and Environment Court in Wehbe vs Pittwater Council (2007) LEC 827 for determining whether compliance is unnecessary or unreasonable. The first approach requires it to be established that the objectives of the development standard are achieved notwithstanding the non-compliance.● the Applicant acknowledges that the intent of Clause 7.4 is to protect retail premises within existing local centres. The proposed development meets this intent based on the following:<ul style="list-style-type: none">○ a shortfall of retail premises is acknowledged within the region;○ the proposed development provides a small percentage (0.69% of 44,000m²) of the overall shortfall;○ the regulatory framework, post 26 April 2025, reinstates the use of shops prohibited within the E3 Productivity Support Zone, which prevents consent for shops specified within Clause 7.4 within the locality; and○ the Council have a current LEP amendment increasing the development standard applying to the land from 2,500m² to 3,500m² GFA. Once gazetted, the proposal would only involve a minor variation to the 3,500m² (i.e. 1.14% based on the Applicant's GFA calculations).● there are sufficient environmental planning grounds to justify contravening the development standard. The applicant states that the proposal aligns with aims (b) and (c) under the TRLEP which relate to flexibility in the planning framework, and to manage and strengthen retail hierarchies and employment opportunities. In addition, the proposal will help to deliver Council's strategic vision for the area by providing services and facilities to accommodate the future growth in the South Tamworth, and to cater for Tamworth's visitor economy; and● the Economic Impact Assessment (EIA) memorandum accompanying the DA confirms that there is an existing shortfall in supermarket GFA of 4,400m² which will increase by 1,100 by 2031. Furthermore, the EIA found that the proposed development will have minimal impact on surrounding centres, including the CBD.
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	<p>This is discussed further under the Section 4.15(1)(b) commentary in this Report.</p> <p>Pursuant to Clause 4.6(4)(a)(i), it is considered that the Applicant's written request has adequately addressed the prescribed matters under Clause 4.6(3). Following review of the economic study during the course of this assessment, Council is satisfied that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case and that there are environmental planning grounds to justify contravening the development standard.</p> <p>The variation to the development standard is well founded and will not lead to the abandonment of the GFA under Clause 7.4. If Council's GFA calculations were used, the proposed variation to the soon to be amended GFA (i.e. 3,500m²) is 3%. This variation is still of a minor nature and meets the objective of the Clause. As such, it is also considered that the proposed variation has merit and that an appropriate degree of flexibility should be supported in this instance.</p> <p>The DA has to be determined by the elected body of Council and not under staff delegation as the development currently contravenes a numerical development standard in the TRLEP by more than 10%.</p>
Clause 5.10 'Heritage Conservation'	<p>There are no items of local European heritage significance known to be located on, or adjoining, the subject land.</p> <p>An Aboriginal Cultural Heritage Assessment Report (ACHAR) was prepared by Everick Heritage (dated June 2023) to accompany the previous 35 Lot subdivision DA (DA2023-0308). The ACHAR identified that there were a number of Aboriginal objects/artefacts that were impacted by the subdivision including the subject site. The ACHAR proposed surface collection of stone artefacts and archaeological salvage, as mitigation against harm from the development and therefore required an Aboriginal Heritage Impact Permit (AHIP) from Heritage NSW. Council referred DA2023-0308 to Heritage NSW which provided its General Terms of Approval, including the requirement for an AHIP. This was then conditioned within the development consent for DA2023-0308 and is similarly conditioned for the subject development.</p> <p>Although some of the identified objects/artefacts in the ACHAR are located on the proposed site, the Applicant does not propose to remove or disturb the objects/artefacts as a part of the scope of works for DA2025-0287 as it is intended to undertake bulk earthworks as a part of the subdivision. Regardless, conditions have been included in the development consent to ensure that works are undertaken in accordance with an AHIP and, in the event of an unexpected find during works, the appropriate procedures are adhered to.</p>

<p>Clause 5.21 'Flood Planning'</p>	<p>The subject land is identified as being partially liable to inundation by flooding (see Figure 3). Before granting consent, Council must be satisfied the development:</p> <ol style="list-style-type: none"> <i>is compatible with the flood function and behaviour on the land, and</i> <i>will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and</i> <i>will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and</i> <i>incorporates appropriate measures to manage risk to life in the event of a flood, and</i> <i>will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.</i>  <p><i>Figure 3. Flood prone area map.</i></p> <p>In response to the above:</p> <ul style="list-style-type: none"> • the proposed development will be outside of the flood inundation area with the exception of some of the carparking and stormwater drainage easement; • a Flood Impact Assessment report prepared by Lyall and Associates was submitted with the subdivision development (DA2023-0308). The Report recommended that the fill platform be setback 12.5m from the northern boundary to prevent adverse impacts on adjoining properties. The applicant has advised that the proposed development subject to DA2025-0287 maintains the 12.5m setback. In this regard, the proposed development is not expected to adversely impact other development or properties; • the proposed development will have flood free access via the new
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	<p>internal road within the Goonoo Goonoo Lands Commercial precinct and Goonoo Goonoo Road. In this regard, it is considered that the proposal will not adversely affect the safe occupation and efficient evacuation of people during a flood event; and</p> <ul style="list-style-type: none"> the proposed development is not expected to adversely affect the environment. Erosion and sediment control measures will be installed and maintained on the site during works. The proposal does not seek to clear any riparian vegetation.
7.1 Earthworks	<p>Bulk earthworks for the subject lands will be undertaken as a part of the subdivision (DA2023-0308). The applicant intends to adjust the subdivision earthworks at the detail design stage to correlate with the required levels for the proposed development.</p> <p>Further earthworks will be required to be undertaken in order to accommodate the proposed development via DA2025-0287, namely associated with footing construction, stormwater drainage and servicing. As a part of the building construction, additional fill will need to be placed on the north and north-western portions of the site. The Applicant has advised that fill associated with the development will be sourced from within the site or from the overall subdivision (Lot 1 DP 1304039). The quality of the fill material will also be considered.</p> <p>The identification and relocation of relics within the vicinity of the development site was subject to an ACHAR and subsequent AHIP as a part of the overall subdivision (DA2023-0308). The relocation works were undertaken prior commencing bulk earthworks for the subdivision.</p> <p>Erosion and sediment controls, allotment filling, landscaping and unexpected finds protocols have been conditioned in order to minimise any adverse environmental impacts on drainage patterns, Aboriginal heritage, soil stability, future site uses and amenity impacts.</p> <p>Based on the above, the proposed earthworks are not expected to have a detrimental impact on drainage patterns and soil stability or the existing and likely amenity of adjoining properties. It is also noted that the site is not within a drinking water catchment or environmentally sensitive area.</p>
Clause 7.4 – Development in Zones E1, E3 and MU1	Clause 7.4 applies to the proposed development and, as discussed above, the applicant has sought a Clause 4.6 variation to the GFA for shops under this Clause.

Table 2. Assessment against TRLEP provisions.

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

A review of the TRLEP 2010 – Phase 1 Planning Proposal 2024 was on public exhibition from 5 June 2024 until 5 July 2024. As a part of the review, Council sought to amend Clause 7.4 under the TRLEP 2010 by:

- removing the reference to 'cellar door premises', which are prohibited in the E1 – Local Centre, E3 – Productivity Support and MU1 – Mixed Use zones; and

- increase the maximum permitted gross floor area for business premises, office premises, food and drink premises, and markets within the E1 – Local Centre, E3 – Productivity Support and MU1 – Mixed Use zones from 2,500m² to 3,500m².

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

Tamworth Regional Development Control Plan 2010:

The *Tamworth Regional Council Development Control Plan 2010* (TRDCP), applies to the proposed development. An assessment against the relevant provisions is presented in **Table 3**:

Commercial / Retail Development Controls	
Provision	Comment
Building Setbacks	No minimum front setbacks are specified under this Part of the TRDCP. The Building Code of Australia assessment reports accompanying the DA do not identify any issues that need to be addressed prior to determining the application. The reports consider that the proposed development can readily achieve compliance with the relevant provisions of the NCC subject to the requirements of the reports being implemented and submission of further detailed information at the Construction Certificate application stage. A recommended condition of consent has been included in this regard.
Outdoor Lighting	The SEE advises that the proposed outdoor lighting will be in accordance with the relevant outdoor lighting controls. A condition has been included in the development consent to ensure that outdoor lighting complies with AS/NZS 11583.1 Pedestrian Area (Category P) Lighting and AS4282 Control of Obtrusive Effects of Outdoor Lighting.
Outdoor Signage	The design and location of the proposed signage has been shown on the submitted architectural plans. Compliance with the Schedule 1 assessment criteria under <i>State Environmental Planning Policy (Industry and Employment) 2021</i> has been addressed in an earlier section of this Report. The luminance levels of the proposed signage will be controlled to comply with the <i>Transport Corridor Outdoor Advertising and Signage Guidelines</i> , which forms a recommended condition of consent.
Design	The proposed development achieves compliance with the controls under this Part as follows: <ul style="list-style-type: none">the facades of the building are articulated by use of colour, arrangement of elements and varying materials, as shown on

	<ul style="list-style-type: none"> the architectural plans; external infrastructure, such as air conditioning units and plant rooms, will be screened where visible from a public road; and the architectural plans show that the roof on the building will be pitched at 3 degrees and comprise light coloured reflective sheeting. In this regard, the proposal achieves compliance as non-reflective roofing is only required where the roof pitch is greater than 17 degrees.
Utilities and Services	All utilities and services will be made available to the site at full cost to the proponent. It is a recommended condition of consent that the developer is responsible to consult with Essential Energy, natural gas and telecommunications carriers regarding the provision of services.
Site Levels and Retaining Walls	The architectural plans show existing and finished ground levels in Australian Height Datum (AHD). Top and bottom wall heights in AHD have also been provided. The visual impact of the retaining wall on the northern boundary of the site is addressed under the Section 4.15(b) commentary in a later section of this Report.
Geology	The SEE advises that the geology of the site was confirmed as part of the subdivision. Footings for the development will be certified by an engineer as part of the Construction Certificate application.
Landscaping	Landscaping shall be provided as a part of the proposed development, as shown on the submitted architectural and landscaping plans. The proposal therefore achieves compliance with this Part of the TRDCP. The species identified within the landscape plans are predominantly low maintenance, drought and frost tolerant. The recommended conditions of consent require the landscaping to be completed prior to the issue of an Occupation Certificate, ongoing maintenance of the landscaping and additional planting to mitigate the visual impact of the retaining wall.
Environmental effects	The potential impacts of the development, and proposed mitigation measures, have been addressed throughout this assessment report.
Soil Erosion and Control	An erosion and sediment control plan (ESCP) prepared by High Definition West Pty Ltd has been submitted with the DA. The recommended conditions of consent require a ESCP to be submitted and approved by Council prior to the commencement of

	works, and the ESCP measures to be maintained for the duration of works.
Construction and Operational Waste Management	A Site Waste Management Plan prepared by Barr Planning has been submitted with the subject DA. The Plan has considered both construction and operational waste requirements. The Plan was referred to Council's Manager of Waste and Resource Recovery for comment who raised no objections subject to conditional approval.
Ongoing Waste Storage	The architectural plans show waste storage areas adjacent to the Back of House (BOH) and loading dock for each tenancy, which will minimise visual impacts. A requirement for a contractor to be appointed for the collection of waste from the site forms a recommended condition of consent.
Noise	The SEE advises that minor noise and vibration impacts will occur during the construction phase. Construction activity is to be restricted to standard construction hours. Operationally, the hours of operation are consistent with the expectations and common operational requirements set for specialised retail uses within the State. It is considered that operationally, the development will have minimal impacts.

Parking, Traffic and Access Controls – Commercial

Parking	<p>The parking schedule under the TRDCP stipulates the following parking rates for the proposed development:</p> <ul style="list-style-type: none"> • Specialised retail premises – 1 space per 45m² GFA; and • Retail premises (shops) >1000m² – 1 space per 16m² GFA <p>Based on the above, the parking requirements for the proposed development are calculated as follows:</p> <table border="1"> <thead> <tr> <th>Component and Land Use</th><th>GFA*</th><th>Parking Requirement**</th></tr> </thead> <tbody> <tr> <td>Tenancy / LFR 1(specialised retail premises)</td><td>2,195m²</td><td>49</td></tr> <tr> <td>Tenancy / LFR 2 (specialised retail premises)</td><td>2,040m²</td><td>46</td></tr> <tr> <td>Shop 1 (retail premises)</td><td>1,580m²</td><td>99</td></tr> <tr> <td>Shop 2 (retail premises)</td><td>2,046m²</td><td>128</td></tr> <tr> <td></td><td>TOTAL</td><td>322</td></tr> </tbody> </table>			Component and Land Use	GFA*	Parking Requirement**	Tenancy / LFR 1(specialised retail premises)	2,195m ²	49	Tenancy / LFR 2 (specialised retail premises)	2,040m ²	46	Shop 1 (retail premises)	1,580m ²	99	Shop 2 (retail premises)	2,046m ²	128		TOTAL	322
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	<p><u>*Note 1:</u> GFA per definition under the TRLEP. Includes staff facilities and amenities but excludes BOH.</p> <p><u>**Note 2:</u> the above calculations have been rounded up to the next highest whole number per the TRDCP.</p> <p>The proposal therefore requires a total of 322 carparking spaces on the site in order to comply with the TRDCP.</p> <p>As such, the proposal seeks a variation to this Part of the TRDCP as 312 carparking spaces will be provided on the site. This results in a shortfall of 10 spaces or 3% variation.</p> <p>Notwithstanding, it is recommended that Council support the variation to the TRDCP in this instance. The variation is considered to be minor and is not expected to result in adverse impacts.</p> <p>The verge, access crossings, parking and delivery areas will be sealed as a part of the development. This requirement has been incorporated into the recommended conditions of consent.</p> <p>The architectural plans and TIA show swept paths for a B99 vehicle and the largest design vehicle (20m articulated vehicle). The swept paths demonstrate that there is adequate area for the manoeuvring of vehicles on the site. A truck turning circle at the rear of the site will facilitate 20m articulated vehicle movements in a forward direction. In this regard, it is considered that there is sufficient area for vehicles to enter and exit in a forward direction.</p> <p>The proposed development provides separation between customer and delivery vehicles. Delivery vehicles will access and egress the site via the eastern most driveway and are proposed to occur outside of the core business hours for the tenancies. Conditions have been included in the recommended conditions of consent have been imposed to ensure that there is no conflict between customer and delivery vehicles.</p> <p>The TIA accompanying the DA advises that the access driveways and parking layout for the proposal are consistent with the requirements in AS2890. The carpark has been designed as a Class A facility with minimum car space dimensions of 2.6m wide and 5.4m long with 6.6m to 7m wide circulation isles. Suitable conditions have been incorporated in the consent to ensure compliance with AS2890.</p> <p>This Part of the TRDCP requires a pedestrian footpath to be constructed for the full frontage of a development to a width consistent with any connecting footpath; or, to Council's Engineering Design Minimum Standards. Pedestrian paths have been provided throughout the carpark. It is noted that there are no existing footpaths on the site at this point in time. However,</p>
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	there is an existing shared footpath on the western side of Goonoo Goonoo Road. In this regard, a recommended condition of consent has been included requiring a 3m wide shared footpath to be constructed for the full southern and western street frontages of the development site prior to the issue of an Occupation Certificate.
EV Charging	The SEE advises that provision for EV charging spaces can be made available on the site subject to detailed design. A condition of consent has been included in the recommended conditions requiring EV charging capability to be included in the carpark.
End of Trip Facilities (bicycle parking, storage, shower and changing facilities).	This Part of the TRDCP requires one bicycle space/rack per 15 carparking spaces. The proposed carpark contains 312 carparking spaces and therefore 20 bicycle racks are required. As shown on the submitted architectural plans, 20 bicycle racks have been allocated for the development near the entrances to the tenancies. A condition of consent is recommended to ensure that at least 20 bicycle racks are provided as a part of the development. A notation will also be made in red on the architectural plans to make it clear that there must be 20 and not 18.
Site Specific – Goonoo Goonoo Road Commercial Lands Precinct	
Development Controls Chapter	Noted and considered above.
Subdivision	Not applicable to this development.
Drainage	See commentary under Section 4.15(1)(b).
Road Design and Network	The proposed development will be accessed from a new intersection upgrade off Craigends Lane and Goonoo Goonoo Road, and part of a new road within the Goonoo Goonoo lands precinct. A condition of consent requires the construction the new internal road and upgraded intersection prior to the issue of an Occupation Certificate for the development. The TIA accompanying the DA has addressed the impact of the proposed development on the surrounding road network, which is discussed in further detail under the Section 4.15(1)(b) section of this Report.
Landscaping	Complies. Landscaping plans have been submitted with the subject DA.

Table 3. Assessment against TRDCP provisions.

Tamworth Regional Council Section 7.12 Indirect (formerly Section 94A) Development Contributions Plan 2013

In accordance with the Tamworth Regional Council Section 7.12 Indirect (formerly Section 94A) Development Contributions Plan 2013, Council may levy a contribution at 1% of the cost of the development, where the value exceeds \$100,000. A Quantity Surveyor's report prepared by WTP Australia Pty Ltd has been submitted to support the DA and confirms that the total development cost is \$25,190,000 including GST. In this regard, it is recommended that a condition be imposed requiring a contribution of \$251,900.00 to be paid to Council prior to the issue of a Construction Certificate.

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

Sewer and water headworks may be levied by Council (as the local water supply authority) under the *Water Management Act 2000*. Council's Development Engineering Division has advised that the following headworks contributions will apply and are payable prior to the issue of a Construction Certificate. This requirement forms a recommended condition of consent:

- Water - \$352,404
- Sewer - \$130,947

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

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

Nil proposed.

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

Not applicable.

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

Context and Setting

It is considered that the proposed development will be compatible with the site and surrounding locality.

Site Design and Internal Layout

Building Code of Australia reports and access reports were submitted with the subject DA. Council's Building Certification Unit has reviewed the submitted information and has not identified any issues. Standard conditions regarding compliance with the NCC and Access to Premises Standards have been included in the recommended conditions of consent.

Access, Transport and Traffic

A TIA, and responses to Council's requests for additional information, prepared by Ason Group have been provided with the DA. The TIA and responses contain an assessment of the anticipated transport implications associated with the proposed development. The cumulative traffic impacts of the subdivision DA2023-0308 and supermarket (DA2023-0354 / MOD2025-0046) have also been assessed.

The operation of the intersections along Goonoo Goonoo Road at Craigends Lane and Jack Smyth Drive have been assessed using traffic modelling software (SIDRA). The modelled scenarios from the TIA and subsequent response to Council's request for additional information are presented in **Tables 4 and 5** below:

Year	Scenario	Included Developments			
		Goonoo Goonoo Road Subdivision	Lot 207 Woolworths [1]	Lot 201/202 (Bulky Goods) [2]	Lot 201/202 (Mixed Uses) [2]
2040	1	✓	✓		
	2	✓	✓	✓	
	3	✓	✓		✓

[1] Minor updates were made to the Woolworths distributions to more accurately reflect how vehicles will approach and depart the site. Lot 207 was considered as bulky goods as part of the Stantec Subdivision Report. This land use has been removed from the model to avoid any overestimation in traffic volumes, with Lot 207 volumes added separately to consider the changed land uses (now a Woolworths supermarket).

[2] Lot 201 and 202 were already considered as bulky goods as part of the Stantec Subdivision Report. This land use has been removed from the model to avoid overestimation in traffic volumes, with Lot 201 and 202 volumes added separately to consider the changed land uses.

Table 4. Traffic Modelling Scenarios (Source: Ason Group).

Year	Scenario	Included Developments			
		Goonoo Goonoo Road Subdivision	Lot 207 Woolworths (Modified Scheme)	Lot 201/202 (Bulky Goods Scenario)	Lot 201/202 (Mixed Uses Scenario)
2030 & 2040	1	✓	✓		
	2	✓	✓	✓	
	3	✓	✓		✓

Table 5. Traffic Modelling Scenarios (updated) (Source: Ason Group).

The original TIA lodged with the DA identified that the intersection between Goonoo Goonoo Road and Craigends Lane will have a Level of Service (LoS) of D, E and F under Scenario 1, 2 and 3 by 2040. It should be noted that the LoS is a grading system from A-F that categorises traffic conditions based on factors such as speed, delay and queuing. A LoS A means free flowing traffic conditions whereas a LoS F indicates significant delays and queuing. In turn, the TIA indicated that the intersection *would be failing by 2040*.

Council received a submission during the public exhibition period which raised concern about the potential impact of the proposed development on the Goonoo Goonoo Road and Craigends Lane intersection. The submission also echoed similar concerns that were identified by Council's review of the submitted information. The applicant provided a response to these concerns in a letter from Ason Group (dated 8 April 2025).

The letter has included updated modelling and assumptions from the previous TIA (dated 6 February 2025), including changes to the diameter of the proposed new roundabout on the intersection between Goonoo Goonoo Road and Craigends Lane. The roundabout has been modelled with a 24m diameter based on the concept plan shown in Figure 4 instead of a 17m diameter in the TIA. Relevantly, the letter from Ason Group (dated 8 April 2025) notes that:

The SIDRA results confirm that under all modelling scenarios and future years, the Goonoo Goonoo Road/Craigends Lane/new access road roundabout would operate at LoS A and LoS B during the weekday AM and PM peak hours, respectively. There would be minor

increases in average delay, queue lengths and degree of saturation between each scenario. All approaches would operate at LoS B or better in the modelled peak periods.

Importantly, the delays to northbound traffic on Goonoo Goonoo Road would be minor, with spare capacity under all scenarios and therefore there is expected to be minimal impacts on surrounding landowners.



Figure 4. Concept plan for Goonoo Goonoo Road / Craigends Lane intersection (Source: Ason and AWD Johnson).

Notwithstanding the above and as discussed in an earlier section of this Report, Council's assessment of the submitted information suggests that the roundabout solution requires further review, particularly in respect to pedestrian and cyclist safety. It is therefore recommended that further information be submitted by the applicant for approval by both Council and TfNSW post determination.

Views and Visual Impact

The potential visual impacts of the development have been considered as part of the assessment of the subject DA and are not expected to be unreasonable based on the Applicant's proposed mitigation measures. It is anticipated that the northern aspect of the proposed development will be visible from Calala Lane and adjacent properties due to the topography of the area (i.e. the subject lands will sit higher compared to surrounding lower lying areas). As shown on the architectural and landscaping plans (see **Figures 5 and 6**), the northern facade of the buildings will be articulated with different coloured precast panels and softened with landscaping. The Applicant also proposes to include trailing plants, such as *Dichondra argentea 'Silver Falls'*, atop of the retaining wall.

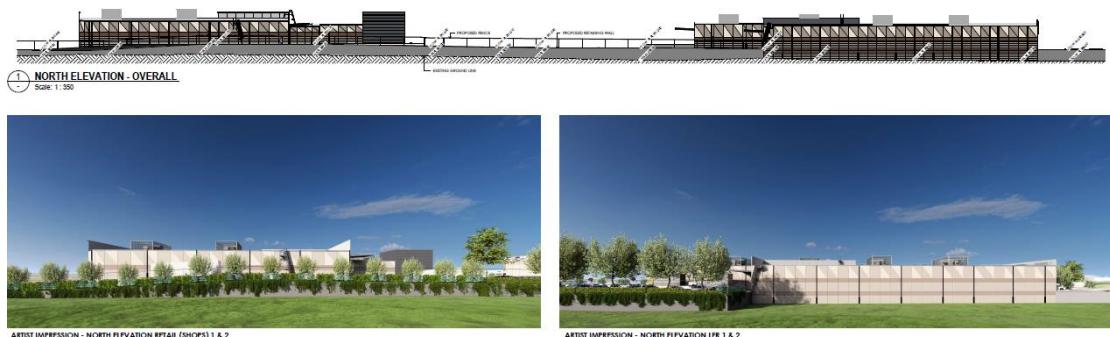


Figure 5. Northern elevation of the proposed development and artist's impression.

TRAILING PLANTS



Figure 6. Proposed trailing plants atop of retaining wall.

As an additional mitigation measure, it is recommended that landscaping is provided within the adjacent property to the north (Lot 1820 in DP 1122162), which is owned by Council. The recommended conditions of consent require an amended or new landscaping plan showing this detail to be submitted and approved by Council's Director of Liveable Communities prior to the issue of the Construction Certificate. A further condition is also recommended requiring all landscaping on the development site, and the adjoining Lot 1820, to be completed prior to the issue of an Occupation Certificate.

Overshadowing

As illustrated on the architectural plans, the proposed development will not result in adverse overshadowing impacts.

Public Domain

A requirement for a 3m wide shared footpath to be constructed along the western and southern street frontages of the site as a part of the development forms a recommended condition of consent. The footpath will help to provide pedestrian linkages between the site and Goonoo Goonoo Road. Street lighting is also required to be provided around the site.

Utilities

The proposed development is capable of being serviced by Council's reticulated water and sewer infrastructure. A concept stormwater servicing strategy has also been submitted with the DA. Council's Development Engineering Division has reviewed the submitted information and raised no objections subject to conditional approval. The recommended conditions of consent stipulate servicing requirements for the development.

Air and Microclimate

It is expected that the proposed development will generate some dust emissions during the construction phase. In this regard, a recommended condition has been imposed requiring

dust control measures to be put in place during works in order to preserve the amenity of the surrounding locality.

Soils

The subject land is not identified as being affected by acid sulphate soils or subsidence.

Bushfire

As the subject lands are partly affected by Council's bushfire prone land map (see **Figure 7**), the proposed development requires assessment under Section 4.14 of the *Environmental Planning and Assessment Act 1979*. It is noted that the proposed development has not been identified as needing a bushfire safety authority under Section 100B of the *Rural Fires Act 1997* and therefore does not constitute an integrated development under Division 4.46 of the *Environmental Planning and Assessment Act 1979*.



Figure 7. Bushfire prone land map.

Chapter 8 'Other Developments' under Planning for Bushfire Protection 2019 (PBP) is relevant to the assessment of proposed development. In order to comply with PBP, the following conditions must be met:

- satisfy the aims and objectives of PBP outlined in Chapter 1;
- consider any issues listed for the specific purpose for the development set out in this Chapter; and,
- propose an appropriate combination of bushfire protection measures (BPMs).

In response to the above:

- It is considered that the proposal satisfies the aims and objectives of PBP. The subject lands predominantly comprise managed land and are surrounded by the similar vegetation. Given the size of the site, it is considered that there is adequate area for the establishment and maintenance of an asset protection zone. The lands do not exceed 15 degree slope, and access and egress to the site will be gained via public roads;
- Section 8.3.1 'Buildings of Class 5 to 8 under the NCC' in Chapter 8 of PBP is applicable to the proposed development. The NCC does not provide for any bushfire specific performance requirements for Class 5 to 8 buildings. However, the objectives in relation to access, water supply, services and emergency and evacuation planning remain relevant; and,
- Based on the above, a suite of BPMs relating to asset protection zones, access, servicing and evacuation have been included in the recommended conditions of consent.

Noise and Vibration

Noise will be generated during the construction phase of the proposed development. A recommended condition of consent limits construction hours in order to prevent unreasonable disturbance of the amenity of the area.

During operations, noise will be generated as a result of vehicle movements and mechanical equipment. It is recommended that conditions be imposed in the consent to ensure that offensive noise, as defined under the *Protection of the Environment Operations Act 1997*, is not generated by the development and operation of the development does not produce levels greater than 5dB (A) above background levels.

Technological Hazards

Nil known.

Safety, Security and Crime Prevention

The SEE accompanying DA2025-0287 addresses the Crime Prevention Through Environmental Design (CPTED) principles, being surveillance, access control, territorial enforcement and space management. The SEE also recommends a list of CPTED measures that should be implemented for the development which has been included in the recommended conditions of consent. In this regard, the proposed development is not expected to result in adverse safety or security impacts.

Social Impact

The proposed development is expected to have a positive social impact through the provision of additional retail services to the area.

Economic Impact

An Economic Impact Assessment (EIA) memorandum prepared by GapMaps and dated 7 February 2025 has been submitted with DA2025-0287. The EIA has examined the potential economic impacts that may occur from the proposed development, namely the additional shops, and drawn upon that previous EIA that was undertaken for DA2023-0354 (i.e. supermarket and future uses across the road and to the south of the subject lands). The EIA found that the proposed shops via DA2025-0287 are expected to have minor/negligible impact in the broader scheme of available retail offerings across Tamworth.

Cumulative Impacts

The cumulative impacts associated with the proposed development relate to traffic and economic impacts, which have been addressed in detail throughout this Report.

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

The development site is considered to be suitable for the purposes of the proposed development. The proposed development is permitted with consent. The Clause 4.6 variation has been found to have merit and therefore should be supported by Council. There are no known environmental constraints or land use restrictions that would make the development prohibitive. Finally, as established throughout this Report, subject to a further review of the intersection between Goonoo Goonoo Road and Craigends Lane and pedestrian connectivity to and from the site, as stipulated in the conditions of consent, there are no perceivable negative impacts from the proposal.

Section 88B Instrument Impacts

Lot 1 in DP 1304039, is burdened by Restriction on the Use of Land (R) pertaining to a building envelope. Tamworth Regional Council is the prescribed authority that is authorised to modify and release the building restriction. The Deposited Plan and corresponding Section 88B instrument are **ATTACHED** at **ANNEXURE 2**, for the information.

The building envelope is located in the north-western corner of Lot 1 in DP 1304039, and affects the site of the development proposed via DA2025-0287. It is also noted that the development proposed via DA2025-0287 does not sit wholly within the building envelope.

The building envelope restriction was imposed as a condition of consent for an earlier subdivision approval (DA2023-0140). The purpose of the restriction was to nominate an area for future development on Lot 1 that is not flood affected and can be connected to gravity sewer. Following the approval of DA2023-0140, Council has approved the 35 lot subdivision of the Goonoo Goonoo Lands Commercial Precinct, which includes conditions requiring the future lots to be serviced by Council's reticulated water and sewer infrastructure. In addition, a recommended condition of consent for DA2025-0287 requires evidence to be submitted to Council confirming that proposed Lot 201, 202 and Part Lot 203 in the plan of subdivision of Lot 1 in DP 1304039, have legally been created by the registration of subdivision plan(s) under DA2023-0308 or as modified, with NSW Land Registry Services.

Based on the above, there are no issues which would suggest that the removal of the restriction should not be supported. It is therefore recommended that Council resolves to consent to the release of the restriction on the use of land.

Lot 1 in DP 1304039, is also subject to a restriction regarding contamination. The issue of contamination has been addressed in an earlier section of this assessment report. As such, the site is considered suitable for its intended use and no further investigation is required.

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

The application was notified to adjoining owners pursuant to the TRC Community Participation Plan 2019, from Friday 28 February until Friday 15 March 2025. One submission was received by Council during the notification period. The submission is **ENCLOSED**, refer to **CONFIDENTIAL ENCLOSURE 1**.

The issues raised in the submission are addressed in **Table 6** below:

Issue	Response
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Traffic Impacts

The submission raises concern regarding the Level of Service (LoS), being D, E or F, at the intersection between Goonoo Goonoo Road and Craigends Lane in all scenarios outlined in the Traffic Impact Assessment prepared by Ason Group and dated 6 February 2025. In light of this, the submitter raises concern about the potential impacts of traffic congestion to their business during the construction and operational phases of the proposed development.

The applicant has provided a response to the issues raised in the submission in a letter from Ason Group (dated 8 April 2025). The letter has included updated modelling and assumptions from the original TIA (dated 6 February 2025), including changes to the diameter of the proposed new roundabout on the intersection between Goonoo Goonoo Road and Craigends Lane. The roundabout has been modelled with a 24m diameter instead of a 17m diameter. Relevantly, the letter from Ason Group (dated 8 April 2025) notes that:

The SIDRA results confirm that under all modelling scenarios and future years, the Goonoo Goonoo Road/ Craigends Lane/ new access road roundabout would operate at LoS A and LoS B during the weekday AM and PM peak hours, respectively. There would be minor increases in average delay, queue lengths and degree of saturation between each scenario. All approaches would operate at LoS B or better in the modelled peak periods.

Importantly, the delays to northbound traffic on Goonoo Goonoo Road would be minor, with spare capacity under all scenarios and therefore there is expected to be minimal impacts on surrounding landowners.

The potential traffic impacts during construction are not expected to be significant. The construction phase is short-term compared to the operational phase and is unlikely to have traffic at the same volumes. To mitigate construction-related impacts, including traffic, the recommended conditions of consent require the preparation of a Construction Environmental Management Plan, inclusive of a Traffic Management Plan, for approval by Council prior to the commencement of works.

Table 6. Response to Submission.

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

Consideration of the public interest relates to whether or not there is widespread community opposition to the proposal. The public interest has been considered as a part of the assessment of the development application. It is concluded that the approval of the proposed development will not contravene the public interest.

(a) Policy Implications

Nil

(b) Financial Implications

The costs related to the removal of the Restriction on the Use of land are to be borne by the developer.

(c) Legal Implications

The Deed and any Release form produced by Land and Property Information NSW will require the Seal of Council be affixed.

The *Local Government (General) Regulation 2021*, section 400(4), requires that the Seal of Council must not be affixed to a document unless the document relates to the business of the Council, and the Council has resolved (by resolution specifically referring to the document) that the Seal be so affixed.

(d) Community Consultation

The proposed development was notified to adjoining landowners from 28 February until 15 March 2025. One submission was received during the notification period.

(e) Delivery Program Objective/Strategy

Focus Area 2 – A Liveable Built Environment.

CONCLUSION:

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

The proposed development is consistent with the applicable environmental planning instruments and it is considered that the development will provide a positive contribution to the site or the community. As a consequence, it is recommended that the application be determined by the granting of consent, subject to the recommended conditions.

8 INFRASTRUCTURE AND SERVICES

Nil

9 GOVERNANCE, STRATEGY AND FINANCE

Nil

10 COMMUNITY SERVICES

Nil

11 REPORTS TO BE CONSIDERED IN CLOSED COUNCIL

RECOMMENDATION

That the confidential reports as listed be considered in a Meeting closed to the public

in accordance with Section 10A(2) of the Local Government Act 1993.

**11.1 REQUEST TO TRANSFER LEASE OF HOPSCOTCH CAFE AND RESTAURANT - PART
LOT 73 DEPOSITED PLAN 1107041**

DIRECTORATE: OFFICE OF THE GENERAL MANAGER
AUTHOR: Nicholas Hawkins, Commercial Property Officer
Reference: Item 8.11 to Ordinary Council 12 August 2014 - Minute No. 213/14
Item 13.4 to Ordinary Council 28 October 2014 - Minute No. 345/14
Item 8.5 to Ordinary Council 25 August 2015 - Minute No. 212/15
Item 15.2 to Ordinary Council 23 August 2016 - Minute No. 257/16
Item 14.1 to Ordinary Council 22 November 2016 - Minute No. 372/16
Item 15.2 to Ordinary Council 23 May 2017 - Minute No. 156/17
Item 7.3 to Ordinary Council 9 June 2020 - Minute No. 160/20
Item 12.4 to Ordinary Council 1 December 2020 - Minute No 383/20

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

SUMMARY

The purpose of this report is to advise Council of the request received to transfer the existing lease of the Council building known as Hopscotch Café and Restaurant to the party identified in the body of this report.