



# TAMWORTH REGIONAL COUNCIL

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

## ORDINARY COUNCIL AGENDA

**8 SEPTEMBER 2020**

**PAUL BENNETT  
GENERAL MANAGER**

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## Council

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

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

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

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

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

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

## Community Consultation Policy

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

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

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

Members of the public wishing to address Council Meetings are requested to contact Council either by telephone, in person or online prior to 4:30pm the day 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, 25 August 2020, 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 GOVERNANCE, STRATEGY AND FINANCE**

#### **7.1 RETURNING OFFICER**

**DIRECTORATE:** CORPORATE AND GOVERNANCE

**AUTHOR:** Karen Litchfield, Manager Governance

### **RECOMMENDATION**

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

### **SUMMARY**

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

## COMMENTARY

Schedule 7 of the Local Government (General) Regulation 2005 states that the General Manager (or a person appointed by the General Manager) will act as the Returning Officer for any election required to elect the Mayor and Deputy Mayor.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Nil

**(c) Legal Implications**

Schedule 7 of the Local Government (General) Regulation 2005 provides that the General Manager (or a person appointed by the General Manager) is the Returning Officer. Consequently, the General Manager will conduct any election required for the position of Mayor and Deputy Mayor.

**(d) Community Consultation**

Nil

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

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## 7.2 METHOD OF VOTING

**DIRECTORATE:** CORPORATE AND GOVERNANCE  
**AUTHOR:** Karen Litchfield, Manager Governance

### **RECOMMENDATION**

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

## SUMMARY

The purpose of this report is to inform the Council of the provisions of Schedule 7 of the Local Government (General) Regulation 2005 for any election required to elect the Mayor and Deputy Mayor.

## COMMENTARY

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

**Schedule 7 Election of mayor by councillors**

**Part 1 Preliminary**

**1 Returning Officer**

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

## **2 Nomination**

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

## **3 Election**

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

### **Part 2 Ordinary ballot or open voting**

#### **4 Application of Part**

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

#### **5 Marking of ballot-papers**

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

#### **6 Count—2 candidates**

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

#### **7 Count—3 or more candidates**

- (1) If there are three or more candidates, the one with the lowest number of votes is to be excluded.



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

### **Part 3 Preferential ballot**

#### **8 Application of Part**

This Part applies if the election proceeds by preferential ballot.

#### **9 Ballot-papers and voting**

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

#### **10 Count**

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

#### **11 Tied candidates**

- (1) If, on any count of votes, there are two candidates in, or remaining in, the election and the numbers of votes cast for the two candidates are equal—

the candidate whose name is first chosen by lot is taken to have received an absolute majority of votes and is therefore taken to be elected.

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

#### **Part 4 General**

##### **12 Choosing by lot**

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

##### **13 Result**

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

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

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Nil

**(c) Legal Implications**

Schedule 7 of the Local Government (General) Regulation 2005, provides for any election required to elect the Mayor and Deputy Mayor.

**(d) Community Consultation**

Nil

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

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### **7.3 DETERMINATION OF METHOD OF VOTING FOR ELECTION OF MAYOR AND DEPUTY MAYOR**

**DIRECTORATE:** CORPORATE AND GOVERNANCE  
**AUTHOR:** Karen Litchfield, Manager Governance

## **RECOMMENDATION**

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

## **SUMMARY**

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

## **COMMENTARY**

Schedule 7 of the Local Government (General) Regulation 2005 provides that if only one Councillor is nominated for the position of Mayor or Deputy Mayor, that Councillor is elected.

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

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

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

Nil

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

Nil

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

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

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

Nil

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

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## **7.4 NOMINATION FOR THE POSITION OF MAYOR**

**DIRECTORATE:** CORPORATE AND GOVERNANCE  
**AUTHOR:** Karen Litchfield, Manager Governance

## **RECOMMENDATION**

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

## **SUMMARY**

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

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## **COMMENTARY**

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

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

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

Nil

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

Nil

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

Section 290(1)(b) of the Local Government Act requires Council to hold the election of the Mayor by the Councillors during the month of September. Section 230(1) of the Local Government Act determines a Mayor elected by the Councillors holds the Office of Mayor for two years, however if the Local Government Elections to be held in September 2021 proceed, the Mayor will only hold Office for 1 year.

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

Nil

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

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## **7.5 NOMINATION FOR THE POSITION OF DEPUTY MAYOR**

**DIRECTORATE:** CORPORATE AND GOVERNANCE  
**AUTHOR:** Karen Litchfield, Manager Governance

### **RECOMMENDATION**

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

### **SUMMARY**

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

## **COMMENTARY**

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

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

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Nil

**(c) Legal Implications**

Section 290(1)(b) of the Local Government Act 1993, requires Council to hold the election of the Deputy Mayor by the Councillors during the month of September. Section 231 of the Local Government Act 1993, in relation to the Deputy Mayor: (1) The Councillors may elect a person from among their number to be the Deputy Mayor. (2) The person may be elected for the Mayoral term or a shorter term. (3) The Deputy Mayor may exercise any function of the Mayor at the request of the Mayor or if the Mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the Office of Mayor. (4) The Councillors may elect a person from among their number to act as Deputy Mayor if the Deputy Mayor is prevented by illness, absence or otherwise from exercising a function under this section, or if no Deputy Mayor has been elected.

**(d) Community Consultation**

Nil

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

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## **7.6 GOVERNANCE STRUCTURE**

**DIRECTORATE:** CORPORATE AND GOVERNANCE  
**AUTHOR:** Karen Litchfield, Manager Governance

### **RECOMMENDATION**

*That Council maintain the current Governance Structure for the ensuing term of two Ordinary Council Meetings held on the second and fourth Tuesday of each month commencing at 6:30pm.*

### **SUMMARY**

The purpose of this report is to:

- (i) note that Council is required under section 365 of the Local Government Act 1993 to meet at least 10 times each year, each time in a different month;
  - (ii) review the effectiveness and continued relevance of the Meeting structure which operated in the previous term of Council from September 2012; and
  - (iii) review the time and date of Council and/or Committee Meetings.
-

## COMMENTARY

Ordinary Meetings of the Council are held on the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of each month commencing at 6:30pm with a target completion time of 9:30pm.

Matters determined by Ordinary meetings will include all those non-delegable functions identified in Section 377 of the Local Government Act 1993, 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 to provide services currently provided by members of staff of 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;
- a decision under section 234 to grant leave of absence to the holder of a civic office;
- the making of an application, or the giving of a notice, to the Governor or Minister;
- this power of delegation; and
- 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:

- Mayor and Councillors Annual Fees;
- Payment of Expenses and Provision of Facilities to Mayor and Councillors;
- Delegation of Functions to General Manager and Principal Committees;
- Code of Conduct;
- Code of Meeting Practice;
- Annual Financial Reports, Auditors Reports, Annual Reports and Statement of the Environment Reports;
- Performance of the General Manager;
- Acceptance of Council Tenders

**(a) Policy Implications**

It is a matter of Council policy to assess and determine whether the existing Council Meeting structure:

- (i) continues to be relevant;
- (ii) is an effective local governance decision making structure;
- (iv) is focussed on the community; and
- (v) the most appropriate citizen participation and community engagement local governance structure available to Council given local circumstances and dictates.

Now is the opportunity to review the existing structure and consider alternatives for an effective, efficient, environmentally responsible, sustainable and open system of local government within the Tamworth Regional Council local government area.

**(b) Financial Implications**

Nil

**(c) Legal Implications**

The current Council structure satisfies all of the legal requirements of the Local Government Act 1993 and the Local Government (General) Regulation 2005.

**(d) Community Consultation**

Business Papers for Council Meetings are available by 12:00pm on the Friday prior to the Council Meeting. Public Forum is held on the 2<sup>nd</sup> Tuesday of every month at 6:00pm by registration only. Community Consultation is held at the start of every Council Meeting by registration only, on items in the Business Paper. Registrations for Public Forum and Community Consultation close at 4:30pm on the Monday prior to the Meeting.

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

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## 7.7 CODE OF CONDUCT AND PROCEDURES FOR THE ADMINISTRATION OF THE CODE OF CONDUCT

**DIRECTORATE:** CORPORATE AND GOVERNANCE  
**AUTHOR:** Karen Litchfield, Manager Governance

**3 ANNEXURES ATTACHED**

### RECOMMENDATION

*That in relation to the report “Code of Conduct and Procedures for the Administration of the Code of Conduct”, Council:*

- (i) adopt the new Code of Conduct;*
- (ii) adopt the Procedures for the Administration of the new Code of Conduct;*
- (iii) endorse the draft Gifts and Benefits Policy and advertise the proposed policy for a period of 28 days for public comments prior to formal adoption by Council; and*
- (iv) request a further report following the review period to consider any public comments on the Gifts and Benefits policy.*

### SUMMARY

The purpose of this report is to adopt the revised Code of Conduct and Procedures for the Administration of the Code of Conduct following amendments from the Office of Local Government and update the Gifts and Benefits Policy to reflect the changes in the Code.

### COMMENTARY

The Office of Local Government released amendments to the Model Code of Conduct on 14 August 2020. The amendments have been made in response to the Supreme Court decision in the matter of *Cornish v Secretary, Department of Planning, Industry and Environment [2019] NSWSC 1134* regarding disciplinary action against Councillors for breaches of the Code of Conduct.

The updated Code of Conduct is **ATTACHED**, refer **ANNEXURE 1**, and the Procedures for the Administration of the Code of Conduct are **ATTACHED**, refer **ANNEXURE 2**.

The key features of the amendments to the Procedures for the Administration of the Code of Conduct:

- Consistent with the Supreme Court’s decision, Councils have the following options when taking disciplinary action against Councillors for breaches of the Code of Conduct under the new Procedures:
  - that a Councillor be formally censured for the breach under section 440G of the *Local Government Act 1993* (the Act), or
  - that a Councillor be formally censured for a breach under section 440G and the matter referred to Office of Local Government for further disciplinary action under the misconduct provisions of the Act.
- The process for censuring Councillors for breaches of the Code of Conduct has been significantly strengthened to ensure Councillors are made publicly accountable to their electors for their conduct. When censuring Councillors, Councils are required to specify in their resolution the grounds on which the Councillor is being censured by



disclosing the investigator's findings and determination and any other grounds that Council considers may be relevant or appropriate.

- Councillors may seek to avoid public censure for breaches of the Code of Conduct by voluntarily agreeing to undergo training or counselling, to apologise for their conduct or to give undertakings not to repeat their conduct before the investigator finalises their report to Council. Investigators can finalise their investigations without a report to Council where they consider these to be an appropriate outcome to the matter they are investigating. However, it will remain open to investigators to finalise their report and to recommend censure where they consider this is appropriate and warranted.
- The process for referral by Council of Code of Conduct breaches by Councillors to the Office of Local Government for further disciplinary action under the misconduct provisions of the Act has been streamlined. Investigators are required to consult with the Office of Local Government before recommending the referral of matters to ensure the conduct in question is sufficiently serious to warrant disciplinary action for misconduct and that there is sufficient evidence of the breach to allow the Office of Local Government to take further disciplinary action.
- Other amendments have been made to the Procedures to:
  - allow panels of conduct reviewers to be appointed without a resolution of Council; and
  - allow the referral of investigators' reports to the Office of Local Government for action under the misconduct provisions of the Act where Council will not have a quorum to deal with the matter.

The key features of the amendments to the Code of Conduct framework include:

- The Model Code of Conduct has been amended to:
  - remove as a breach, failure to comply with a Council resolution requiring action in relation to a Code of Conduct breach (because it is now redundant)
  - update the language used to describe the various heads of discrimination in clause 3.6 to reflect more contemporary standards
  - include in the definition of Council Committee and Council Committee members, members of Audit, Risk and Improvement Committees (ARICs) in anticipation of the commencement of the requirement for all Councils to appoint an ARIC following the next local government elections.
- Amendments have also been made to the gifts and benefits provisions of the Model Code of Conduct in response to feedback from some Councils. The amendments:
  - lift the \$50 cap on the value of gifts that may be accepted to \$100;
  - clarify that items with a value of \$10 or less are not "gifts or benefits" for the purposes of the Model Code of Conduct and do not need to be disclosed;
  - clarify that benefits and facilities provided by Councils (as opposed to third parties) to staff and Councillors are not "gifts or benefits" for the purposes of the Model Code of Conduct; and
  - remove the cap on the value of meals and refreshments that may be accepted by Council officials in conjunction with the performance of their official duties.

- Council is not obliged to amend the Code of Conduct to lift the cap on the value of gifts that may be accepted if they do not wish to. It is open to Councils to retain the existing \$50 cap or to impose another cap that is lower than \$100.

As part of the new Code of Conduct provisions Council can opt to lift the cap on gifts and benefits from \$50 to \$100 or any other amount less than \$100. If the cap is lifted the Gift and Benefits policy will need to be publicly advertised to reflect this change and the other changes listed above to be consistent with the Code. An updated Gifts and Benefits Policy is **ATTACHED**, refer **ANNEXURE 3**. This policy will now go on public exhibition for 28 days for public comment.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Nil

**(c) Legal Implications**

Section 440 of the Local Government Act 1993, provides that Council must adopt a Code of Conduct that incorporates the provisions of the *Model Code* and may include provisions that supplement the *Model Code* providing any supplementary provisions are consistent with the *Model Code*.

For the purpose of compliance with Section 440 of the Act, the Tamworth Regional Council Code of Conduct incorporates and comprises all parts and provisions of the revised *Model Code of Conduct*.

**(d) Community Consultation**

The Gifts and Benefits Policy will be publicly advertised for 28 days and appropriate training of all staff in the new Code of Conduct will be undertaken once adopted.

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

A Region of Progressive Leadership – L21 Transparency and accountability of government

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## **7.8 NSW STATE WATER CONFERENCE 2020**

**DIRECTORATE:**

**CORPORATE AND GOVERNANCE**

**AUTHOR:**

**Elizabeth Lantz, Administration Supervisor**

**1 ANNEXURES ATTACHED**

### **RECOMMENDATION**

*That in relation to the report “NSW State Water Conference 2020”, Council nominate Councillor representatives to attend the conference to be held in Tamworth on 12-13 November 2020 as appropriate.*

### **SUMMARY**

The Australian Water Association (AWA) holds an annual NSW State Conference. The theme of this year’s conference is “Planning and Building a Resilient Water Future for NSW”. This conference is being held in Tamworth on 12-13 November 2020.

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## COMMENTARY

The AWA convenes its NSW State Water Conference annually, with the 2020 Conference to be held in Tamworth on 12-13 November 2020. The 2019 Conference was held in Orange. A copy of the draft program is **ATTACHED**, refer **ANNEXURE 1**.

The conference theme is “Planning and Building a Resilient Water Future for NSW”. NSW is facing unprecedented challenges for vital water resources that sustain our communities in regional and urban areas. Some of the key topics that will be included in the conference are issues such as the impact of the drought on regional communities and the environment, workforce resilience and asset management.

Registrations are now open with limited spots available. If the event is cancelled a full refund will be provided.

Tamworth Regional Council is a Joint Conference Partner, along with Hunter H2O and Principal Partner, Water NSW.

### (a) Policy Implications

Nil

### (b) Financial Implications

Councillors have been allocated a sum of \$4,500 annually to specifically provide for attendance at local government sector conferences, workshops, industry working parties and community non-council functions and events. Expenses relating to the attendance of a councillor/s at the Special Local Roads and Transport Congress will be allocated against this vote.

The cost for the two day event including registration and meals will be approximately \$595 per person.

### (c) Legal Implications

Council’s formal resolution for the attendance of any delegate is required for insurance purposes whilst the representatives are performing bona fide council duties.

### (d) Community Consultation

Nil

### (e) Delivery Program Objective/Strategy

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

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## 8 ENVIRONMENT AND PLANNING

### 8.1 COMMUNITY CONSULTATION OUTCOMES AND RECOMMENDED AMENDMENTS - TEMPORARY EVENTS PLANNING PROPOSAL – FILE NO

**DIRECTORATE:** PLANNING AND COMPLIANCE  
**AUTHOR:** Sonya Vickery, Integrated Planner - IP&R

**Reference:** Item 7.1 to Ordinary Council 11 February 2020 - Minute No 2/20

1 CONFIDENTIAL ENCLOSURES ENCLOSED

## **RECOMMENDATION**

***That in relation to the report “Community Consultation Outcomes and Recommended Amendments - Temporary Events Planning Proposal”, that Council:***

- (i) endorse an amendment to the Planning Proposal in order to broaden the scope of the proposal by removing reference to RE1 - Public Recreation zoned land. The amendment will refer, instead, to temporary events held on all “public reserves and local public roads” in the Tamworth region;***
- (ii) endorse additional minor wording amendments to the Planning Proposal in response to consultation undertaken with relevant public authorities; and***
- (iii) determine to make the Plan in accordance with Section 3.36(2)(a) of the Environmental Planning and Assessment Act 1979.***

## **SUMMARY**

Council has completed the public exhibition of the Planning Proposal. Council did not receive any submissions during the exhibition period. Feedback from Council staff and public authorities has been received and considered. It is recommended that Council authorise some minor amendments to the wording of the planning proposal and finalise the proposal in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

## **COMMENTARY**

The objective of this planning proposal is to encourage a wider and more diverse range of temporary events and activities to be undertaken on public land and public roads throughout the region. The proposal seeks to remove the requirement for development consent for low impact events such as market stalls, community fund raising activities, concerts or other activities that are open to the public. The requirement for any and all other approvals under other Acts or legislation, including the *Local Government Act 1993*, the *Roads Act 1993* and *Crown Lands Management Act 2016*, remain in place and are not affected by this planning proposal.

Council resolved at its Ordinary Meeting of 11 February 2020, to adopt the Planning Proposal and forward the proposal to the Department of Planning Industry and Environment (DPIE) for Gateway Determination. A Gateway Determination was issued on 18 March 2020 advising that the Planning Proposal could proceed to exhibition for a minimum period of 14 days.

### **Public Exhibition and Community Consultation**

Public exhibition and community consultation was undertaken by Council between Monday 22 June 2020, and Monday 6 July 2020.

The public exhibition was conducted in accordance with the *Environmental Planning and Assessment Act 1979*, *COVID-19 Legislation Amendment (Emergency Measures) Bill 2020*, the *Local Government (General) Regulation 2005* and the DPIE’s guidance as per the Gateway Determination.

During the public exhibition period, the Planning Proposal and associated documentation were available via the following locations:

- NSW Department of Planning, Industry and Environment LEP Tracking System;
- Tamworth Regional Council’s website;

- Tamworth Regional Council Customer Service Centre, Ray Walsh House; and
- Tamworth Regional Council offices in Nundle, Barraba and Manilla.

### **Submissions**

Council did not receive any submissions during the exhibition period.

### **Consultation with Council staff**

Council staff were consulted in relation to the planning proposal and comments were provided which highlighted the following issues:

1. It was identified that the extent of **RE1 - Public Recreation** zoned land is somewhat limited throughout the Tamworth region's towns and villages. Public reserves and parks are commonly used for events and activities on land which may be zoned for Residential, Village or other purposes. By limiting the Planning Proposal to RE1 zoned land events in the towns and villages may not be captured by the proposed amendment.

#### Comment

It is acknowledged that by limiting the Planning Proposal to RE1 zoned land, events undertaken on Council's many parks and reserves (not zoned RE1) may not be captured by the proposal. Therefore, it is proposed to alter the scope of the Planning Proposal by replacing the reference to RE1 zoned land with **public reserves**. This amendment will ensure that more of Council's publicly owned land can be utilised by the community, throughout the region.

2. The removal of the requirement for development consent in accordance with Part 4 of the *EP&A Act* places the onus on Council to consider activities such as temporary events in relation to the Part 5 of the Act. Concerns were raised that Part 5 would not be adequately addressed as a consequence of the proposed amendment.

#### Comment

Part 5 of the *EP&A Act* requires that Council fully consider the potential for environmental impacts arising from an activity, before undertaking or approving activities that do not require development consent. It is intended that Council's events booking process and associated forms will be amended to ensure that events or activities which have the potential to trigger a Part 5 assessment are referred to the Development Hub for further analysis.

### **Feedback from Public Authorities**

Council sought and obtained comment from public authorities as a requirement of the Gateway Determination issued by the DPIE. Council received comments from two public authorities, the NSW Rural Fire Service and Transport for NSW (TfNSW). The comments are summarised as follows:

#### NSW Rural Fire Service (NSW RFS)

The NSW RFS requested that the wording of the proposed LEP amendment be amended to preclude overnight camping and accommodation. The NSW RFS further requested that Council ensure that bushfire considerations are included in any local approvals process under Section 68 of the *Local Government Act 1993*.

#### Comment

Council considers that the request to preclude overnight camping or accommodation is reasonable. Events which involve overnight camping or accommodation will be subject to

the development assessment process. The wording of the proposed clause will be amended accordingly. Furthermore, it is proposed that the events booking form will be amended to specifically address events which may be undertaken on bushfire prone land.

Council undertook additional verbal consultation with the relevant RFS agency officer in relation to the above and were advised that they have no further comment.

#### Transport for NSW (TfNSW)

TfNSW queried whether Council intends to limit the scale and frequency of events and, if so, how would such limits be described in the proposed LEP amendment? In addition, TfNSW queried whether the planning proposal adequately addressed the potential for impacts on traffic and parking. Council's approach to addressing Part 5 of the EP&A Act was also queried by the agency.

#### Comment

In relation to the TfNSW's query regarding the scale and frequency of events it is not Council's intention to limit the frequency of events.

With regard to the management of matters such as traffic and parking it is considered that Council's existing processes are more than adequate. Council's Event Booking Form requires an applicant to identify potential traffic/parking impacts arising or associated with their event. If potential impacts are identified the event application is referred to the Regional Services Directorate. Regional Services undertake an initial assessment of the proposed event and, depending on the scale and category of the event, issue the relevant licensing or refer the application to the Traffic Committee and/or the Development Hub as necessary. Council's website contains a page entitled "Traffic Management for Special Events" which provides excellent guidance for event planners and organisers.

With regard to Part 5 of the EP&A Act it is considered, as previously stated, that the refinement of Council's booking process will ensure that applications which trigger any form of additional assessment will be internally referred as appropriate.

It is further intended that the wording of the planning proposal will be altered to state that events must not generate significant impacts on the environment or public amenity.

Council undertook additional verbal consultation with the relevant TfNSW agency officer in relation to the above comments and we have received written confirmation that our approach is acceptable and they have no further comment.

A full copy of the public authority comments are **ENCLOSED**, refer **CONFIDENTIAL ENCLOSURE 1**.

#### **Exhibition Outcome Summary**

The intention of the planning proposal is to increase community use and engagement with the region's many and varied public reserves, park lands and sporting fields. The consultation process brought to Council's attention a number of issues which required further consideration.

The following amendments to the wording of the planning proposal are therefore proposed:

1. the objective of the clause will be amended to enable temporary events and associated temporary structures without development consent on **public reserves** and local public roads;
2. insertion of an additional statement which states that temporary events do not include



overnight camping or accommodation; and

3. include a statement which reads “events which are the subject of this clause must not generate or cause any significant impact on the environment or public amenity”.

In addition to the above, the existing events booking system will be refined to ensure that issues such as safety and risk, environmental impacts, bushfire considerations, Aboriginal heritage protection and traffic management are all addressed at the booking stage.

Events or activities which trigger any requirement for additional assessment will be referred to the Development Hub and/or the Traffic Committee.

### **Conclusion**

The objective of this planning proposal is to encourage more community events and/or private functions to be undertaken by removing the requirement for development consent. It is anticipated that this proposal will result in the region’s parks, gardens, playgrounds and sporting fields being enjoyed by more people, more often.

Council did not receive any submissions during the exhibition process. The public authorities consulted by Council did not object to the planning proposal. Moreover, follow-up discussions with the relevant authorities were positive and resulted in outcomes considered suitable to all parties.

Therefore, it is recommended that Council support the above recommended changes and finalise the planning proposal in accordance with the *Environmental Planning and Assessment Act 1979*.

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

Nil

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

Nil

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

The planning proposal will alter the planning provisions of the *Tamworth Regional Local Environmental Plan 2010* by removing the requirement for development consent in relation to temporary events undertaken on public reserves and/or local public roads.

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

Community consultation was undertaken by Council through public exhibition of the planning proposal for a period of 14 days from Monday 22 June 2020, to Monday 6 July 2020, in accordance with the requirements of the Gateway Determination.

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

A Prosperous Region – P11 Support and facilitate economic development and employment opportunities.

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## 8.2 HERITAGE WORKING GROUP MEETING - No. 15 ON 13 DECEMBER 2019, No. 16 ON 21 FEBRUARY 2020 AND No. 17 ON 4 AUGUST 2020

**DIRECTORATE:** PLANNING AND COMPLIANCE  
**AUTHOR:** Sam Lobsey, Acting Director Planning and Compliance  
**4 ANNEXURES ATTACHED**

### **RECOMMENDATION**

*That in relation to the report “Heritage Working Group Meeting - No. 15 on 13 December 2019, No. 16 on 21 February 2020 and No. 17 on 4 August 2020”, Council receive and note the Minutes of each meeting.*

### **SUMMARY**

The purpose of this report is to present the Minutes of the Heritage Working Group (HWG) meetings held on 13 December 2019, 21 February 2020 and 4 August 2020, and provide Council with an overview from each meeting.

### **COMMENTARY**

#### Meeting Number 15

The Minutes of the Heritage Working Group Meeting No. 15, held on Friday 13 December 2019, are **ATTACHED**, refer **ANNEXURE 1**.

The main purpose of this meeting was to have initial discussions regarding the 2020 Heritage Festival and Awards. Discussion took place in regards to the proposed program for the Festival together with the Awards Event.

#### Meeting Number 16

The Minutes of the Heritage Working Group Meeting No. 16, held on Friday 21 February 2020, are **ATTACHED**, refer **ANNEXURE 2**.

The main purpose of this meeting was to have further more in-depth discussions regarding to the running of the Awards event and also discuss possible events over Heritage Week in May 2020.

#### Meeting Number 17

The Minutes of the Heritage Working Group Meeting No. 17, held on Tuesday 4 August 2020, are **ATTACHED**, refer **ANNEXURE 3**.

The main purpose of this meeting was to discuss the opening and processing of the 2020/21 Heritage Assistance Fund. Brief discussions were also held regarding the 2020 Tamworth Regional Heritage Festival which was cancelled as a result of COVID-19, and the online Tamworth Regional Heritage Awards event that was redesigned to be a live online event on Council’s Facebook page. The Marketing Report for the 2020 Tamworth Regional Heritage Festival and Awards is **ATTACHED**, refer **ANNEXURE 4**.

This meeting also included an agenda item raised by Councillor Juanita Wilson relating to a stormwater culvert that was discovered in Carthage Street (between White Street and Hill Street), East Tamworth during Council infrastructure works in May 2020.

The Working Group was agreeable to seek Council’s support in investigating the inclusion of the Carthage Street stormwater culverts to be listed item in *Schedule 5 Environmental Heritage* contained within the Tamworth Regional Local Environmental Plan 2010. This will



be considered by Council Integrated Planning Team as part of the current review of the TRLEP 2010.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Nil

**(c) Legal Implications**

Nil

**(d) Community Consultation**

Any community consultation is reported to the group at each meeting on all matters relating to Heritage.

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

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

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## **9 INFRASTRUCTURE AND SERVICES**

### **9.1 TAMWORTH GLOBAL GATEWAY PARK BUSINESS PLAN**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Graeme McKenzie, Manager, Project Management and Engineering Services

**Reference:** Item 8.1 to Ordinary Council 28 July 2020 - Minute No 204/20  
Item 9.9 to Ordinary Council 26 May 2020 - Minute No 114/20  
Item 9.5 to Ordinary Council 28 April 2020 - Minute No 110/20  
Item 12.4 to Ordinary Council 11 February 2020 - Minute No 25/20

**3 ANNEXURES ATTACHED**

#### **RECOMMENDATION**

*That in relation to the report “Tamworth Global Gateway Park Business Plan”, Council:*

- (i) adopt Option 3, Develop Stage 1 as the preferred option as described in the Tamworth Global Gateway Park business case;*
  - (ii) approve the amount of \$12,800,000 from an external loan to fund the roadworks and provision of services for Goddard Lane (east), the Intermodal Access Road and the Business Park Stage 1 Access Road;*
  - (iii) authorise the affixing of the Seal of Council to loan documents and any other documents required for the completion of the loan transaction to re-finance the internal loan that was drawn down in 2016 to purchase the Tamworth Global Gateway Park site;*
  - (iv) authorise the affixing of the Seal of Council to the loan documents and any other*
-

*documents required for the completion of the loan transaction to finance the construction of Stage 1 of the TGGP up to an amount of \$12,800,000 to activate the precinct; and*

- (v) *approve the engagement of CBRE and Burke & Smyth as the co-exclusive agents for the Tamworth Global Gateway Park for a period of 12 months.*

## **SUMMARY**

This report discusses the status of the proposed development known as the Tamworth Global Gateway Park (TGGP), formerly known as the Glen Artney Enterprise Area. The TGGP is a 246 hectare parcel of land located between Westdale and the Glen Artney industrial area and is bounded by the Oxley Highway, Goddard Lane, Goonan Street and Marathon Street.

The report also details the process of development of the Business Plan for the project. The Business Plan includes the marketing demand assessment, the marketing strategy, proposed staging of the development, cash flow predictions, the additional funding required to progress the development of the TGGP and the expected timelines for expenditure of those funds to undertake design and construction of the infrastructure.

The Business Plan is presented as part of this report with a recommendation for Council to adopt Option 3, Stage 1, which will allow for the activation of the precinct and provide the necessary Council owned infrastructure to allow the intermodal to commence operation.

Part of the purpose of this report is also to seek a resolution from Council to take out two loans for the TGGP project. The first loan is for \$16 million to re-finance the internal loan that was drawn down in 2016 to acquire the TGGP land. The second is for a loan up to an amount of \$12.8 million to finance the construction of Stage 1 of TGGP.

An expression of interest was undertaken to engage marketing and sales agencies for the TGGP. This report also seeks resolution from Council to appoint marketing and sales agents for the TGGP for a period of 12 months.

## **COMMENTARY**

### **History of the Tamworth Global Gateway Park**

The history of the Tamworth Global Gateway Park has been well documented in previous Council reports, referenced above.

### **Update in Status of the Rail Line Reactivation Project**

As previously reported, an upper limit cost estimate for the reactivation of the rail line had been prepared and was under review by the Department of Regional NSW. The State Government, through the Deputy Premier, announced additional funding of \$28 million for the project on 2 September 2020. This represents a significant step forward and provides certainty regarding the development of the Intermodal and achieving the targeted intermodal operational date of September 2021. It is expected that there will be considerable interest from other parties in land development within the TGGP now that it has been confirmed that the intermodal will be operational by late 2021. This timeline also requires a commitment from Council to ensure that the infrastructure required for access to and servicing of the Intermodal site is constructed before September 2021.

## Business Plan

Council requested the Director Regional Services to prepare the project Business Plan and report back to Council for approval and consideration of budget prior to construction of the various work packages.

At this point in time the following actions have helped inform the Business Plan:

- Council's Economic Development team have researched how other industrial parks have been staged and marketed, and sought professional advice from industry experts in relation to the most effective methods of marketing land sales, including the identification of critical elements in the design to meet current and emerging developer needs. The team has also prepared an overarching document on the strategic advantages of TGGP and Tamworth, as a place to invest;
- a Marketing and Development specialist has been retained by Council staff to provide specialist advice in relation to the marketing of the project and to assist in the preparation of the Business Plan;
- as part of this work, a marketing demand study has been finalised to inform the Business Plan. A copy of the Industrial Demand Assessment is **ATTACHED**, refer **ANNEXURE 1**; and
- an expression of interest (EOI) has been prepared and advertised with a view to engaging a marketing and sales agent specialising in the industrial sector. The EOI required that the agent be either a locally based agent partnering with an agent with a national presence or vice versa, to ensure that Council gets the benefit of national exposure and local understanding, liaison and presence.

## Summary of Industrial Demand Assessment Study

The Demand Assessment Study was prepared by consultants Urbis on the basis of census data from 2011 and 2016. The forecast for the next five years was undertaken using the following sources:

- 2019 employment data by industry in the Tamworth Local Government Area (LGA), from the National Institute of Economic and Industry Research (NIEIR); and
- projected growth rates (2019-2024) by industry for the New England and North West SA4, based on Department of Education, Skills and Employment (DESE) projections.

Council also has access to similar data prepared and analysed by Id.profile. Comparison of the data suggests that the Urbis analysis is conservative. For the nature of this investigation, a conservative approach is considered warranted.

Based on the study, Urbis forecast the following increase in job numbers within the LGA during the 2019-2024 period:

- 753 additional office based jobs; and
- 115 additional industrial based jobs.

Adopting benchmark employment densities, this forecast for the same period equates to:

- 15,060 m<sup>2</sup> of office floor space; and
- 14,836 m<sup>2</sup> of industrial floor space.

Urbis also undertook a Competitive Positioning Assessment of the TGGP land against other potential competitors and found that 'the subject site rates highly against all demand drivers,

and is a highly attractive location for industrial tenants. Its access to regional transport infrastructure, particularly the rail network through the IMT (intermodal terminal), and availability of large undeveloped sites makes it suitable for larger, more sophisticated, regionally serving industrial tenants.'

The Urbis report also includes a land value assessment for both industrial and business park land with the results reproduced in the following table.

Table 1

Analysed Rates (\$/m <sup>2</sup> )				
Land Type	Lot Size m <sup>2</sup>			
	0-499 m <sup>2</sup>	500-1999 m <sup>2</sup>	2000-4999 m <sup>2</sup>	5000+ m <sup>2</sup>
Industrial Land	\$170-\$190	\$150-\$170	\$150-\$170	\$120-\$150
Business Park Land	\$190-\$210	\$170-\$190	\$170-\$190	\$150-\$170

The final area that Urbis investigated was the impact of the intermodal terminal on TGGP. Comparison was made to existing intermodals and the planned intermodal for Parkes. It was found that:

- land surrounding intermodal facilities generally experiences an increase in value, with increases in selling price of 9% readily achievable; and
- in the case of Parkes, investment from major freight and logistics operators occurring before the Intermodal was operational.

The anticipated demand figures provided in the Urbis report have been based on census data and do not include the impact of the intermodal. Consequently, the demand data is considered to be conservative. Despite this, the data still indicates reasonable levels of growth in both markets relevant to the TGGP.

### Option Development

Council has been positioning itself in recent years for strategy based growth and development for the city of Tamworth, consistent with NSW Government development plans and based on the strategic drivers identified in Council's Economic Development Strategy (Tamworth Tomorrow 2016-2021). Council has recently adopted Blueprint 100, an ambitious strategy aimed to deliver significant growth for Tamworth City over the coming decades. TGGP is identified as the Western Growth Corridor in Blueprint 100.

With 246 hectares of land available, there are a large number of options available to Council as the next step in the development of TGGP.

The options to launch the TGGP to market have been considered with the primary objective of activating commercial and industrial development in the city and maximising future development potential for the site; whilst taking into account capital expenditure and potential sales revenue.

In order to achieve the primary objective of activation, it is considered essential that the TGGP development aligns with the Intermodal timeline, firstly to meet Council's commitments to the Intermodal project and secondly to fully capitalise on the market benefits that the Intermodal facility will deliver. To further enhance the activation, simplified development approval mechanisms for developers will be established to streamline the development process which should attract developers to commit to the TGGP.

Three broad options have been considered for the next step in the development of TGGP.

**Option 1 – Selling the site**

Council has the option of selling the park in its entirety or large parcels of land for private development, now or in the future.

**Option 2 – Council develop the whole site**

The second option is for TRC to retain ownership of the TGGP in its entirety and develop it progressively, in stages over the life of the project.

**Option 3 – Develop Stage 1 and leave future staging options open**

The third option consists of the Stage 1 release, which includes three specific packages of infrastructure development, targeting different markets. These are:

- Goddard Lane Roadworks: Opens up all of the land fronting the eastern side of Goddard Lane;
- Intermodal Access Roads: Provides access and services for the Intermodal site and opens up land adjoining the Intermodal facility; and
- Business Park Roads: Opens up the Business Park site.

Under this option Council would still retain approximately 80% of the TGGP land, which again could be developed in stages by Council or sold in parcels to other developers to the maximise activation of the precinct.

**Option Analysis**

To assist with the analysis of the various options, cost estimates were prepared for proposed staging of the development. The cost estimates are **ATTACHED**, refer **ANNEXURE 2**. For the purpose of the cost estimates, the following assumptions were made:

- selling prices for Industrial land and Business Park land were \$90 and \$130, respectively per square metre, GST exclusive. These prices are well less than analysed rates presented in the Urbis report **ATTACHED**, refer **ANNEXURE 1**, and also less than recent rates achieved within the city;
- costs associated with selling the land (commission, marketing and legal costs) was assumed to be 10% of the selling price which is also considered conservative;
- cost estimates for Stage 1 civil works were based on preliminary designs at various stages of design development. Cost estimates included all civil works for roads, drainage, water, sewer, power, street lighting, gas and communications; and
- cost estimates for subsequent Stages were based on indicative rates developed for Stage 1 works and included allowance for civil works for roads, drainage, water, sewer, power, street lighting, gas and communications.

**Option 1 – Selling the Site**

Option 1 for the project was been developed on the basis that Council may consider putting the entire parcel of land on the market for sale.

The current valuation for the sale of the park is \$25.5 million, which would mean Council would likely break-even, based on current cost to date. However it is thought land of this size would have a very limited market and the length of time to achieve a sale could negatively impact on Council financially. The NSW Government has also invested over \$20

million in the TGGP and associated infrastructure for the purpose of activation and job creation. This does not include the recently announced funding for the Intermodal.

This approach would not achieve the primary objective of activating the TGGP; it would also impact on Council's relationship with the NSW Government and could result in legal proceedings from Qube, due to loss of time and financial investment to date. This option would also prevent council from having any control of the development which comes with considerable risks, including the timely development of the land, activation of the intermodal and the future quality of tenancies for the park. In addition, due to the size of the land and its' positioning at a significant entrance to the city, development control is of high importance to ensure maximum benefit to the city, residents and regional networks.

This option was not considered further.

### **Option 2 – Council develop the whole site**

Under this option, Council would retain ownership of the TGGP in its entirety and develop it in stages over the life of the project. This is estimated to cost approximately \$105 million (includes cost to date, excludes holding costs) based on current development costs **ATTACHED**, refer **ANNEXURE 2**. However the total profit is estimated to be in the range of \$50 million (based on current figures, sale rates and costs).

This option is not the recommended for the following reasons:

- Energising and maximising business activation of the precinct is the primary goal of TGGP. It is accepted that to maximise activation within the precinct will require involvement of other business development entities partnering with Council or purchasing land within TGGP for development;
- Additional human and financial resources will be required within Council for the duration of the development. This will limit the resources being applied to more conventional Council functions and projects; and
- Council retaining the land for staged development will see it in opposition to private land developers. This could discourage private developers from investing in the city having a detrimental effect on achieving the development rates required within Blueprint 100.

### **Option 3 – Develop Stage 1 (leaving future staging options open)**

This is the preferred and recommended option which includes the release 15.69 ha of land on Goddard Lane, 10.76 ha adjacent to the intermodal terminal and 3.95 ha at the entry to the business park off the Oxley Highway. Based on the estimates prepared and **ATTACHED**, refer **ANNEXURE 2**, the development of this option would cost \$14,803,940, of which there is a Federal Government contribution of \$2,202,291 for the construction of the Intermodal Access Roads. The resulting cost to Council for the Stage 1 works is \$12,601,649.

This is the preferred option as it is the only option which will achieve the primary objective of activating the TGGP and maximising the potential activation of the precinct by allowing other developers to be part of driving industrial development in the city.

Sales from the stage one development have the potential of totalling \$28.9 million. Furthermore this option would result in a direct addition of 340 jobs and over 760 jobs in total through consumption impacts; boosting economic activity as well as driving further investment in the park.



Therefore, it is proposed to launch the TGGP to the market with a Stage 1 development. The Stage 1 development would include the land release and servicing of: 15.69 ha on Goddard Lane, 10.76 ha adjacent to the intermodal facility and 3.95 ha at the Oxley Highway entrance to the Business Park.

A copy of the Business Plan is **ATTACHED**, refer **ANNEXURE 3**.

### **Update in Overall Funding for Development of the TGGP**

As previously reported, significant funding has been provided in relation to the development of the TGGP. With the most recent announcement from the State Government in relation to the rail line reactivation, the overall figures demonstrate that there is great confidence in the funding partners for the potential of TGGP.

Assuming that Council approves the commitment of \$12.8 million for the construction of Stage 1, the current contributions from various funding partners in relation to the TGGP development are presented in the following table.

*Table 2*

<b>Project Component</b>	<b>Funding Contributor</b>	<b>TOTAL</b>
TRC Costs Committed to date – including land acquisition, fees for rezoning, loan repayments, holding costs, contributions to grant funding and design and study costs for Stage 1.	TRC	\$24.435 million
Federal Government funding for Country Road Roundabout and Intermodal Access Roads	Federal Government	\$6.734 million
Growing Local Economies Funding for Country Road Roundabout, Trunk Stormwater and Jewry Street Extension	State Government	\$20.2459 million
State Government funding for reactivation of rail line out to the Intermodal including level crossings	State Government	\$35.4 million
Development Costs to Design and Construct Intermodal Terminal Facility	Qube Logistics	\$5.0 million
Design and Construction Costs for Stage 1 of TGGP Development	TRC	\$12.602 million
<b>TOTAL</b>		<b>\$104.417 million</b>

Based on the figures above, the Council contribution represents 35% of the total funds committed to the TGGP project to date from all funding contributors.

### **Council Funding for the Project**

Part of the purpose of this report is to seek a resolution from Council to take out two loans for the TGGP project. The Revenue Policy for 2020-2021 under the section External Borrowings outlines Council's intention to borrow funds for this project. A Capital Expenditure Review will be undertaken once Council has formalised its intentions regarding the TGGP site.

#### **Loan 1**

In March 2016, Tamworth Regional Council obtained approval from the Office Local Government (OLG) to facilitate an internal loan for \$16 million to acquire the site known as the TGGP. Due to unforeseen delays with the development of the Intermodal no land sales within the precinct have taken place and as such, no principal repayments have been made off the initial loan.

Regardless of what option Council endorses with regards to the TGGP site, it needs to be able to refinance this loan in March 2021, unless in the interim sufficient quantities of land have been sold prior to that date to settle the loan.

A recommendation of this report is that Council authorise the refinancing of the loan to acquire the TGGP and authorise staff to make application initially to the OLG to seek approval for another internal five year loan. If this loan application should fail then Council would need to approach other financial institutions to borrow funds to refinance this loan. The intention is to take out a ten year interest only loan that allows sporadic payments of principal. As part of the negotiation process Council may have to agree to make principal and interest repayments.

## **Loan 2**

Should Council agree to the recommendation of this report and adopt Option 3 it is recommended that the construction of Stage 1 be funded by a ten year loan and that Council endorse borrowings of up to a maximum of \$12.8 million. Finance staff will investigate loan options including a facility which would allow funds to be drawn down as required and also facilitate spasmodic principal repayments which would be funded from land sales.

## **Marketing and Sales Consideration**

In June 2020, Council called an Expressions of Interest (EOI) for Marketing and Sales Agencies for the Tamworth Global Gateway Park. EOIs closed on 1 July 2020. Three EOIs were received, with two being non compliant. One of the non-compliant agents was a local Tamworth real estate agent. TRC staff met with both local agents who had submitted EOIs to discuss in more detail their marketing and sales approach to the TGGP. The results of the meetings, with the current alignment to the nominated national agents, did not ignite confidence in the appointment of any EOI applicant under their current application.

During this period Qube Logistics, a partner in the intermodal freight facility, identified a national agent they had been working with, who have extensive intermodal experience. CBRE were asked to submit a late EOI. The CBRE proposal was of much higher standard than any other expressions of interest received and their knowledge of regional markets was superior to the other national agents. In addition, they have vast experience working with clients associated with intermodal facilities.

The only local agent who submitted a compliant expression of interest was Burke & Smyth. Burke & Smyth were linked to Colliers International as part of their EOI process, however through ongoing discussions they have agreed to partner with CBRE.

At the Councillor workshop on 27 August 2020, the Councillors present were agreeable to Council appointing CBRE as the national selling agent for the TGGP, conditional that they are aligned to a local agent. This has now been facilitated and the recommendation is to formally appoint CBRE and Burke & Smyth as the agents for TGGP.

CBRE have submitted a fee estimate to undertake a marketing campaign to commence in October 2020. The current estimate for this package is \$28,812 (ex GST) and will be funded from the Stage 1 loan if approved by Council.

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

Nil



**(b) Financial Implications**

The following table provides an estimate of the anticipated return from the development and sale of the TGGP. Selling prices have been estimated from comparable sites in the region.

Delayed sales or increased costs will have a negative impact on the estimated profit for the Stage 1 development. Council needs to consider potential delays against the long term economic growth of the region.

The main focus for Council should be the elimination of loans, in order to do this Council needs to be open to offers to acquire parcels of land not within the confines of Stage 1. Currently the loan for acquisition is costing Council \$280,000 per annum.

Due to the sporadic nature of this project and the financial implications for General Fund, Council will be provided with a financial update every quarter in line with the quarterly budget reviews.

**Preferred Option Stage 1 Profit Estimate**

Anticipated Sales Income Stage 1	<u>28,940,000.00</u>
Pro Rata Share Holding Costs to 30/6/25	48,971.92
Pro Rata Share Interest Expense to 30/6/25	603,062.22
Goddard Lane Development Costs	6,916,973.00
Intermodal Access Development Costs	3,583,980.00
Business Park Initial	2,100,697.00
Additional Loan Contingency	198,350.00
Pro Rata Share Acquisition costs	1,978,099.18
Selling Costs Stage 1	<u>2,894,000.00</u>
Total Anticipated Expenditure	<u>18,324,133.33</u>
Stage 1 Estimated Profit	<u><u>10,615,866.67</u></u>

Assumptions:

All Stage 1 sold by 30 June 2025.

Loan for the development will be targeted for repayment within five years, with interest only payments being made on the loan to acquire the land.

**(c) Legal Implications**

The loan contracts and associated documents require the Seal of Council to be affixed.

The Local Government (General) Regulation 2005 Clause 400(4) requires that the Seal of Council must not be affixed to a document unless the document relates to the business of Council and the Council has resolved (by resolution specifically referring to the document) that the Seal be so affixed.

**(d) Community Consultation**

The Intermodal Project Control Group are coordinating media releases with Council's Communications team as the Intermodal project progresses.

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

A Prosperous Region – P11 Support and facilitate economic development and employment opportunities.

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**9.2 ROAD CLASSIFICATION REVIEW AND REGIONAL ROAD TRANSFER**

**DIRECTORATE: REGIONAL SERVICES**

**AUTHOR: Murray Russell, Manager Infrastructure and Works**

**1 ANNEXURES ATTACHED**

**RECOMMENDATION**

*That in relation to the report "Road Classification Review and Regional Road Transfer", Council make a submission to the Regional Road Transfer and NSW Road Classification Review - Independent Panel as follows:*

- (i) seek reclassification of Moonbi Gap/Moore Creek/Davidsons Lane/Appleby Lane route to Regional Road status with ownership retained by Council;*
- (ii) seek transfer of the following roads to the State:*
  - Werris Creek Road (Main Road 130) High Priority;*
  - Ogunbil Road (Regional Road 7718) High Priority;*
  - Nundle Road (Regional Road 105) High Priority;*
  - Rangari Road (Main Road 357) High Priority; and*
  - Lindsays Gap Road (Main Road 106) Low Priority;*
- (iii) retain ownership as is:*
  - Rushes Creek Road (Regional Road 7711);*
  - McIntyre/Bundarra Road (Main Road 132);*
  - Goonoo Goonoo Road – Bridge Street to Scott Road (Regional Road 7707);*
  - Jewry/Dampier Street (Regional Road 7744); and*
- (iv) highlight as part of Council's submission existing State Roads (Market Street between Arthur and Manilla Streets, and Manilla Street between Market and Barraba Streets) will be reclassified as Local Roads, with the exception of the historic truss bridge over the Namoi River, upon completion of the Namoi River Crossing Project, subject to the new road alignment being recognised as a State Road.*

**SUMMARY**

Transport for NSW is asking road managers to identify all roads they intend to submit for reclassification or transfer. This report provides information to guide Council's submission to the Regional Road Transfer and NSW Road Classification Review - Independent Panel.

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## **COMMENTARY**

The State Government is currently undertaking a review of road classifications across NSW. The three existing road classifications (State, Regional and Local) are explained below.

State Roads are the primary network for traffic, linking routes for the movement of people and goods within the urban centres of Sydney, Newcastle, Wollongong and Central Coast, and throughout the State. These roads are the responsibility of the State Government, through Transport for NSW (TfNSW), to fund, prioritise and carry out works. State Roads generally include those roads classified as Freeways, State Highways and Main Roads under the Roads Act 1993. Interestingly, Council remains the “owner” and “authority” for State Roads (except Freeways), and TfNSW only exercises road authority functions to the extent necessary for the functioning of the road as a State Road. For example, councils are responsible for the footpaths and road reserve, whilst TfNSW is responsible for the travel lanes and structures such as bridges.

Regional Roads comprise the secondary road network which, together with State Roads, provide for travel between smaller towns and districts and perform a sub-arterial function within major urban centres. These roads are the responsibility of councils (including determining priorities and carrying out works), however funding for these works is provided by the State Government through BLOCK Grant and REPAIR Grant funding.

Local Roads comprise those roads not classified under the Roads Act 1993 and these roads are the responsibility of Local Government.

The State, from time to time, undertakes a review of the classification of all roads to ensure that they are still appropriate. The last time this was done was approximately 10 years ago, at which time Jewry Street and Dampier Street were reclassified as Regional Roads.

Council has an opportunity to present a submission for roads to be considered for reclassification, either up or down the hierarchy. This could allow Council to have a Local Road reclassified as a Regional Road, which would then attract State funding through the Block/Repair Grant. Similarly, there may be a case for a Regional Road to be reclassified as a State Road, at which point the management of that corridor would be transferred to TfNSW.

The State has indicated they will consider submissions from councils for some Regional Roads to be transferred to the management of the State, and still retain their Regional Road status. Whilst the mechanism for this transfer has not yet been made entirely clear, the guidance from TfNSW to date would suggest that such roads are likely to be managed under a similar model to the current Road Maintenance Council Contract (RMCC), where Council undertakes maintenance works under contract to TfNSW. Such a model would be unlikely to result in any significant financial impact on Council (positive or negative).

### **Considerations for reclassification**

When considering a submission for reclassification it will be important to ensure that the road fits within the general purpose of the particular road classification.

For example, Nundle Road clearly satisfies the description of a Regional Road as it links the major centre of Tamworth with a significant destination. It is unlikely that Nundle Road would be considered for reclassification as a State Road, as it is not a major through route, and does not carry significant volumes of inter-regional traffic.

There may be an argument to seek reclassification of the local roads on the Moonbi-Appleby route to Regional Roads, as the route provides a significant link between locations such as

Moonbi, Gunnedah and Manilla. This functionality appears to be similar to Rangari Road, which links Manilla and Boggabri and is already recognised as a Regional Road.

A map showing the location of roads referred to below is **ATTACHED**, refer **ANNEXURE 1**.

A summary of Tamworth Regional Council's Local Roads that may be appropriate for Regional Road reclassification is provided below.

#### **Moonbi Gap/Moore Creek/Davidsons/Appleby Lane**

- average daily traffic (ADT) is approximately 600;
- satisfies the criteria for consideration as a Regional Road, as it links smaller towns and districts;
- local residents have lobbied for upgrade work, albeit with some concerns about potential increases in heavy traffic that may result from such improvements;
- local political support for upgrade works;
- State and Federal support for the route, with Appleby Lane upgrade previously funded;
- identified as a significant route by Council in Blueprint 100, with grant funding sought from State and Federal Government for upgrade;
- relatively high traffic volumes when compared to some existing Regional Roads; and
- desirable upgrade works are beyond Council's current financial capacity, however existing traffic volumes should help with grant funding applications through existing State and Federal Grant Programs.

**Recommendation:** Seek reclassification of the Moonbi Gap/Moore Creek/Davidsons/Appleby Lane route to Regional Road status, with ownership retained by Council.

#### **Considerations for transfer of roads to the State Government**

As noted earlier, Council may make a submission for consideration to transfer management of any Regional Road to the State. In such cases, the existing classification would remain, but the funding and decision making function would be removed from Council. Such a shift may be beneficial where the current management arrangement appears to be unable to achieve the community's expectation for upgrading the route.

An example of such a road would be Ogunbil Road, including Port Stephens Cutting. This route has had a strong push from residents and other road users for upgrade, and has had strong political support at Local and State level for several years, but such an upgrade has been hamstrung by the limitation of the existing Block/Repair Grant funding arrangements. By transferring ownership to the State, it should be easier for a potential upgrade to be considered within the wider State context, with access to the larger budget of TfNSW, which is not constrained by Local Government boundaries.

Where a Regional Road has not seen a strong push for upgrade, the road is currently of a reasonable standard and is being well managed within the constraints of the existing funding arrangements, there would be no need for Council to actively pursue the transfer of

management to the State. An example of such a road is Ruses Creek Road, between Manilla and Gunnedah Road.

A summary of Tamworth Regional Council's existing Regional Roads is provided below.

**Werris Creek Road (Main Road 130)**

- ADT is approximately 2,600;
- political will for upgrade at State and Local level;
- upgrade requirements beyond existing funding capacity, however State funding for upgrade recently committed. Once this upgrade project is completed, the route is unlikely to require further upgrade works in the medium term;
- attracted Black Spot funding several times;
- high traffic volumes; and
- neighbouring Council (Liverpool Plains) has indicated a desire to seek transfer of Werris Creek Road to the State.

**Recommendation:** Seek transfer of ownership to the State (high priority).

**Ogunbil Road (Regional Road 7718)**

- ADT is approximately 570 (northern end) and 250 (southern end);
- political will for upgrade at State and Local level, particularly for Port Stephens Cutting;
- apart from Port Stephens Cutting, the remainder of the road is generally narrow, and in relatively low standard of maintenance;
- upgrade requirements are beyond existing funding capacity;
- consideration may be dependant on a review of the Nundle Road link to the New England Highway; and
- consideration may also depend on support from eastern councils for reclassification of Thunderbolts Way, which Ogunbil Road ultimately connects to. Walcha Shire Council has indicated a desire to transfer Thunderbolts Way to the State, but Gloucester Shire Council is currently not supporting this proposal.

**Recommendation:** Seek transfer of ownership to the State (high priority).

**Nundle Road (Main Road 105)**

- ADT is approximately 1,700 (northern end) and 400 (southern end);
- no strong push for major upgrade from State or Local level;
- high traffic volumes in northern half;
- northern half in reasonable condition and links to Ogunbil Road;
- southern half requires significant maintenance and some upgrade;
- upgrade requirements beyond existing funding capacity;
- maintenance funding is marginal; and

- may need State transfer of Nundle Road in order to support the proposed transfer of Ogunbil Road, in order to ensure common management of the link to the New England Highway.

**Recommendation:** Seek transfer of ownership to the State (high priority).

#### **Rushes Creek Road (Regional Road 7711)**

- ADT is approximately 500;
- no political push for upgrade at either State or Local level;
- existing standard is good;
- existing maintenance is good; and
- the neighbouring Gunnedah Shire Council has indicated they would consider transferring to the State if Tamworth sought to, but it is not a high priority for them.

**Recommendation:** Retain as is

#### **Rangari Road (Main Road 357)**

- ADT is approximately 200;
- political will for upgrade at State and Local level;
- relatively low traffic volumes;
- upgrade requirements beyond existing funding capacity, however State funding for upgrade recently committed. Once this upgrade project is completed, the route is unlikely to require further upgrade works in the medium term;
- sealed portion of the road built to a reasonable standard;
- existing maintenance is good; and
- neighbouring councils (Gunnedah Shire and Narrabri Shire) have both indicated a desire to transfer Rangari Road to the State.

**Recommendation:** Seek transfer of ownership to the State (high priority).

#### **Lindsays Gap Road (Main Road 106)**

- ADT is approximately 120;
- no political push for upgrade at either State or Local level;
- low traffic volumes;
- pavement is narrow in places, and could benefit from some upgrade;
- three existing bridges are narrow, and would benefit from upgrade, but traffic volumes are low, and bridges are in reasonable condition;
- upgrade requirements beyond existing funding capacity; and
- maintenance funding is marginal, and some sections are in currently in poor condition.

**Recommendation:** Seek transfer of ownership to the State (low priority).

#### **McIntyre/Bundarra Road (Main Road 132)**

- ADT is approximately 50;

- no political push for upgrade at either State or Local level;
- very low traffic volumes;
- approximately 12 kilometres unsealed on eastern end, but most of this has been recently re-sheeted and is in reasonable condition;
- sealed portion of the road built to a reasonable standard;
- upgrade requirements (to sealed road) beyond existing funding capacity, but traffic volumes are unlikely to warrant such an upgrade;
- maintenance funding is reasonable, and most of the road is in reasonable condition; and
- the route crosses Gwydir Shire Council and Uralla Shire Council. Neither Council has expressed a desire to seek transfer of ownership to the State.

**Recommendation:** Retain as is.

#### **Goonoo Goonoo Road - Bridge Street to Scott Road (Regional Road 7707)**

- ADT is approximately 14,000;
- no political push for upgrade at either State or Local level;
- road built to a reasonable standard; and
- most of the road is in reasonable condition.

**Recommendation:** Retain as is.

#### **Jewry/Dampier Street (Regional Road 7744)**

- ADT is approximately 10,000-15,000;
- there will be a continued need for upgrade in relation to growth of industrial area;
- recent upgrades funded through grants at either State or Local level, which are usually able to be secured because of high traffic volumes;
- very high traffic volumes;
- some sections have been recently upgraded, and are in reasonable condition, but some parts are in need of pavement rehabilitation and/or intersection upgrade;
- most of the road has been built to a reasonable standard, but will come under increased pressure for upgrade through future growth; and
- upgrade requirements beyond existing funding capacity, but potentially funded through grants.

**Recommendation:** Retain as is.

#### **Namoi River Crossing Project**

The construction of the new crossing of the Namoi River in Manilla is imminent, with commencement anticipated late 2020, for completion during 2021. Upon completion, it is expected that the new road alignment will be classified as a State Road and come under the control and management of TfNSW. It is also anticipated that the existing State Roads (Market Street between Arthur and Manilla Streets, and Manilla Street between Market and Barraba Streets) will be reclassified as Local Roads, with the exception of the historic truss



bridge over the Namoi River, which will continue to be owned and maintained by TfNSW. Although these reclassifications are expected to be undertaken as a matter of course during the final stage of the project, it is also proposed that they will be highlighted as part of Council's submission to the Regional Road Transfer and NSW Road Classification Review - Independent Panel.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

During 2019-2020, Council's total expenditure on roads and related infrastructure was approximately \$42 million. This included maintenance, asset renewal, various grant funded major projects, as well as work undertaken on State Roads for TfNSW under the RMCC contract. The portion of this total that was spent on Regional Roads was \$3.7 million, being a little under 10%.

It can be seen that ownership transfer of some Regional Roads to the State would not have a major impact on Council's financial position, even if the total revenue was lost. This impact would be virtually eliminated under the anticipated management model where Council would be expected to undertake the required road maintenance on Regional Roads under contract to TfNSW.

**(c) Legal Implications**

Management of roads is prescribed by the Roads Act. Although Tamworth Regional Council is the Roads Authority for all roads within the Tamworth region, there are provisions that allow TfNSW to take management responsibility for roads.

**(d) Community Consultation**

Nil

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

An Accessible Region - A11 To maintain the current levels of service across the region's transport infrastructure.

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**9.3 OVER EXTRACTION FROM COUNCIL'S SCOTT ROAD DRIFT WELLS**

**DIRECTORATE: WATER AND WASTE**

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

**Reference: Item 6.2 to Ordinary Council 9 June 2020 - Minute No 159/20**

**1 ANNEXURES ATTACHED**

**RECOMMENDATION**

***That in relation to the report "Over Extraction from Council's Scott Road Drift Wells", Council:***

***(i) receive and note the report; and***

***(ii) provide \$3,000 from the Water Reserve to pay the fine/s issued.***

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## SUMMARY

The Natural Resource Access Regulator has completed investigations into the circumstances relating to Council's over extraction of water from the four Scott Road Drift Wells considered to be extracting groundwater.

## COMMENTARY

Councillors would be aware that Council operates six wells located in Scott Road, Tamworth and referred to as the Scott Road Drift Wells. The wells provide water to the Calala Water Treatment Plant to help meet daily demand for treated water in Tamworth, Moonbi and Kootingal. The local and identification numbers of the wells are in the document **ATTACHED**, refer **ANNEXURE 1**.

For the purposes of licensing, Wells 1 and 1A are considered to be so close to the Peel River that the water extracted is considered to be coming straight from the Peel River and therefore these wells are considered to be extracting surface water. Wells 3, 4, 5 and 6 are further away from the Peel River and are therefore considered to be extracting groundwater.

Given the different water sources, Council has two licenses covering extraction from the wells. The conditions associated with each license are detailed below:

Wells 1 and 1A

- Well 1 - when flow at Paradise Gauge (Gauge No. 419024) is  $\geq 5$  ML/day extract at max of 30 litres/sec; and
- Well 1A When flow at Paradise Gauge (Gauge No. 419024) is  $\geq 5$  ML/day extract at max of 20 litres/sec.

For both wells

- when flow in the Peel is  $< 5$  ML/day operate each for one 12 hour period per month
- share Component/entitlement – Town Water 1,200 ML's
- allocation – 2019/2020 water year 70%
- allocated amount 840 ML's

Wells 3, 4, 5 and 6

- share component – Town Water 10 ML's
- share component – General Security 108 ML's
- allocation – 2019/2020 water year – Town Water 100%
- allocation – 2019/2020 water year – Gen Sec 51%
- allocated amount  $10 + 0.51 \times 108 = 65.08$  ML's

As detailed, the water available for extraction from Wells 3,4,5 and 6 is relatively low and staff were concerned, given the severe drought in place in the later part of 2019, and the importance of maximising extraction from the four wells to allow water to remain stored in Chaffey Dam, Council would exceed its extraction limit. Council staff were of the view that Council would be required to purchase more water on the open market, either permanent or temporary water, to attach to the wells to address this issue if it arose, however, in initial discussions with staff at the Department of Planning, Industry and Environment (DPIE) it became apparent that attaching additional water to the wells may not be approved.

On 21 January 2020, Council wrote to the Minister for Water, Property and Housing the Hon. Melinda Pavey MP, advising that, at that time, Council had already exceeded its allocation and Council was seeking advice from the Minister's Office regarding what could be done in relation to this matter.

The Minister replied in a letter dated 8 April 2020, and received by Council on 20 April 2020, which advised Council to purchase more alluvium water on the open market and attach this water to the wells, or transfer some other Council owned water to the wells. The letter was silent about the issue, pointed out in the Council letter, that the DPIE had cautioned that approval for allocating additional water to the wells may not be granted because of concerns about adverse effects on other wells/bores in the area.

Following the Ministers' reply, staff had ongoing discussions with DPIE concerning the amount of water that could be attached to the wells, and/or identifying the existing privately owned wells which are considered by DPIE to be in the zone of influence of wells 3, 4, 5 and 6. Without this information Council ran the risk of purchasing water to attach to the wells only to have permission denied to do so. In relation to the zone of influence, if Council purchased all the water from the wells inside the zone of influence (assuming the existing owners were willing to sell) then all the wells that could be adversely effected by attaching more water to the wells would be removed and therefore DPIE could in theory, approve an application to apply any amount of water to the wells.

Extraction from the wells continued during these further discussions with DPIE.

In May, the Natural Resource Access Regulator (NRAR) requested further information about Council's over extraction from the wells and that NRAR was considering what action should be taken against Council for breaching license conditions.

At its Meeting of 9 June 2020, Council considered a closed Council report in relation to over extraction from the four Scott Road Drift Wells considered to be extracting groundwater at Scott Road Tamworth. The report advised the Natural Resource Access Regulator (NRAR) was investigating the circumstances surrounding the over extraction and sought Council direction on actions Council would like to take in relation to this matter. Council, having considered the report, resolved to cease extraction from the four groundwater wells immediately. In accordance with Council's resolution, extraction ceased on 10 June 2020.

NRAR has now completed its investigation and advised Council that it has imposed two by \$1,500 fines under Section 60C(2) of the Water Management Act 2000 – Taking water for which there is no or insufficient allocation. The first fine is for the period 30 November 2019 to 31 December 2019, and the second is for the period 1 January 2020 to 10 June 2020, when extraction ceased. According to NRAR total extraction from the wells during these two periods was 375.67 Megalitres, which equates to a total over extraction of 310.59 Megalitres.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

The total cost of the fines is \$3,000. There are no funds in the current operating plan to fund payment of these fines and therefore Council is requested to approve funding from the Water Reserve.

**(c) Legal Implications**

Nil

**(d) Community Consultation**

Nil

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

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

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**9.4 TAMWORTH EFFLUENT REUSE FARM OPERATION TENDER**

**DIRECTORATE: WATER AND WASTE**

**AUTHOR: Daniel Coe, Manager Water and Waste**

**Reference: Item16.4 to Ordinary Council 10 March 2020 - Minute No 65/20  
2 ANNEXURES ATTACHED**

**RECOMMENDATION**

*That in relation to the report “Tamworth Effluent Reuse Farm Operation Tender”, Council:*

- (i) proceed to open tender for the operation of the Tamworth Effluent Reuse Farm (ERF) by a third party contractor on the following basis:*
- a. Council retains full ownership of the ERF and associated infrastructure;*
  - b. Council retains responsibility for environmental monitoring and compliance with the EPA licence to operate the ERF;*
  - c. the tender is based on a five year operating term with the option for a five year extension, at Council’s sole discretion, however, Council may consider alternative tender periods;*
  - d. Council guarantees supply of a minimum of 3,000ML/yr (that is a minimum of 250 ML per month) of effluent for use at the ERF;*
  - e. Council will retain the right to use up to 20% of the effluent produced at Westdale WWTP (estimated to be a minimum of 800ML/yr) for any purpose, or alternatively supply it to ERF for use by the ERF Operations Contractor;*
  - f. tenderers must supply a conforming tender offer based on one of the nominated cropping plans provided in the tender documents;*
  - g. tenderers may also offer different cropping plans as alternative tenders provided they meet Council’s effluent utilisation and long term sustainability goals;*
  - h. the contract payment structure for the tender will be based on a monthly lease fee and a cost per megalitre of effluent utilised with all farm operating costs including electricity being paid by the ERF operations contractor. Noting also that alternative payment structures may also be considered;*
  - i. Council pay the Contractor a cost per megalitre for effluent that is irrigated at Council’s request for sustainability purposes noting that this effluent will not be part of the Contractors 3,000ML/year allocation;*
  - j. Council pay the Contractor reasonable costs associated with prescribed*
-

*soil remediation activities required by the EPA such as gypsum application; and*

- k. the tender evaluation shall be based on achieving mandatory hurdle criteria and then shall be based on 50% price and 50% non-price criteria;*
- (ii) consider providing funding for an additional two irrigated pivot areas of approximately 85 hectares to be developed to increase total irrigated area from 600 to 685 hectares as part of the 2021/22 financial year budget process;*
- (iii) remove the management of the dryland farming area adjacent to the Tamworth Airport from the new contract;*
- (iv) not proceed with a solar scheme at the ERF at this time; and*
- (v) undertake a substantive industry engagement plan to promote interest in the ERF from the Agricultural Sector, Government Agricultural Agencies, Universities and Research Centres.*

## **SUMMARY**

The purpose of this report is to update Council on the status, program and certain key details of the proposed tender for the operations contract for the Tamworth Effluent Reuse Farm (ERF) and to seek approval from Council to proceed with the tender process.

## **COMMENTARY**

The Tamworth Effluent Reuse Farm (ERF) was developed to provide sustainable management of the effluent produced from the Westdale Wastewater Treatment Plant (WWTP) where this effluent could be beneficially reused in agricultural production. The objective was 100% reuse of the effluent in a “normal” year. The Tamworth Wastewater System Environmental Protection Licence no. 1600 includes the ERF operation, and specifies successful ERF operation is a requirement of meeting the EPA licence conditions.

Under the terms and conditions of the current operating agreement between Council and the current operator of the ERF, Harley Hay, Council is required to advise Harley Hay 18 months before the Agreement ends, if Council is prepared to offer Harley Hay an extension of the current Agreement for a further five years. At its Meeting of 10 March 2020, Council resolved to not extend the current Agreement, when it expires on 15 September 2021, and to begin the process of retendering the ERF operation.

Since the decision made by Council in March 2020 to not extend the ERF operating contract, staff have been reviewing the existing operational agreement to identify improvements that can be incorporated in any future operation. In this respect Councilor Workshops were held in July 2020 and August 2020, to discuss matters associated with the ongoing operation of the ERF and this report incorporates the discussions from those workshops.

The following are believed to be key aspects of the ERF operations that have been reviewed and includes recommendations in each area.

### **1. ERF OWNERSHIP AND INFRASTRUCTURE MAINTENANCE**

The ERF is owned by Council along with all ERF infrastructure including irrigation equipment and hay sheds. No change is proposed to this ownership structure.

Council will continue to be financially responsible for the upgrade and replacement of the ERF infrastructure.

The new contract will include that preventative and routine maintenance of infrastructure is

the responsibility of the operator and in the event this maintenance is not completed Council will be able to undertake the work and bill the operator.

## **2. ERF OPERATIONS MODEL**

A number of different operations models are available for management of the ERF. These range from full operation by Council, to various forms of joint operation between Council and a Third Party Contractor to full operation by a Third Party Contractor.

Operation by a Third Party Contractor is the management arrangement for the existing farm operation contract. This approach provides Council with a known risk profile and is recommended as the preferred approach for the new operations contract.

## **3. ERF COMPLIANCE WITH EPA LICENCE**

Council is ultimately responsible for compliance with EPL 1600 for the operation of the complete Westdale WWTP system that includes the ERF.

It is proposed that Council will continue to undertake and pay the full cost of environmental compliance monitoring associated with the ERF operation including annual soil monitoring.

EPA guidelines also require gypsum application to assist with the management of soil properties at the ERF. It is proposed that Council pay the full cost for gypsum application as required by the EPA.

## **4. ERF OPERATIONAL TERM**

The current ERF contract structure is for a 10 year operational period with a five year additional term at Council's sole discretion.

The following contract terms have been reviewed with perceived advantages and disadvantages of each term presented below:

### Option 1 – Five Year Term (plus five years at Council's sole discretion)

#### *Advantages*

- good flexibility for Council in terms of future effluent utilisation;
- aligns with future upgrades and replacements at Westdale WWTP & ERF;
- allows specific soil remediation strategies to be tested and proven without long term commitment to their continuation; and
- potentially reduces the risk of ERF Contract being novated or transferred to a new contractor during operations term.

#### *Disadvantages*

- shorter term may reduce economic return to ERF operations contractor.

### Option 2 – 10 Year Term (plus five years at Council's sole discretion)

#### *Advantages*

- expected to attract a higher commercial return and potentially more tenderers.

#### *Disadvantages*

- reduced flexibility if Council changes its strategy in terms of longer term effluent reuse and/or disposal strategy.

### Option 3 – 15 Year Term (plus five years at Council's sole discretion)

#### *Advantages*

- expected to potentially deliver the highest commercial return to Council and
- may enable value adding local processing business that adds value to the ERF.

#### *Disadvantages*

- changes in economic conditions may result in ERF business making windfall profits or failing during the contract period; and
- very limited flexibility if Council changes its strategy in terms of longer term effluent reuse and/or disposal strategy.

Given the current issues that need to be addressed in terms of soil remediation at the ERF and the possibility of changes to the quantity of effluent that may be made available for ERF operations, Option 1 is recommended with a five year initial term and a second five year term available to the contractor at Council's sole discretion.

## **5. EFFLUENT USE FLEXIBILITY**

The current operating contract enables Council to source up to 20 percent of effluent generated by the Westdale WWTP for alternative purposes, however a notice period of three years is required to be provided to the ERF operator prior to redirecting effluent. In this respect, options were identified that provide Council more flexibility in gaining immediate access to effluent for alternative uses, without impacting the financial viability of ERF operation, and Council not being potentially liable to pay the operator compensation.

The annual volume of effluent produced at Westdale WWTP depends on the wastewater production of the city of Tamworth from both domestic and industry waste sources. Over the 10 year life of the ERF the lowest production volume of effluent generated (~3,800 ML) has been during the past 12 months due to the ongoing drought conditions and Level 5 water restrictions being in place. The largest volume of effluent generated was ~4,700 ML in 2016 which was a wet year without water restrictions.

The volume of effluent that is available for irrigation use at the ERF is a critical input into the agricultural production cycle to ensure adequate water is available for successful crop production. On this basis it is proposed that Council guarantee a minimum volume of water that will be supplied to the ERF each year. In addition, it is necessary that this effluent is available consistently throughout the year to provide security of effluent availability for irrigation.

A guaranteed supply of 3,000 ML/yr equates to 80% of the available effluent in an extremely dry year which enables Council the possibility to utilise the remaining 20% (800 ML's minimum during a very dry year up to 940 ML's in a wet year) for other purposes. It is therefore proposed that Council guarantee a supply of a minimum of 250 ML/month to the ERF contractor which equates to the annual minimum allocation of 3,000 ML/yr.

At this time, the only use that has been identified for effluent by Council is the ongoing irrigation on the ERF. During the proposed term of the ERF contract i.e. five years, Council has expressed the desire for the investigation of alternative effluent reuse options such as recycled effluent to industrial development areas.

In the event that Council does not have a use for the effluent over and above 3000 ML/yr, it is proposed that this effluent would normally be transferred to the ERF onsite storage dam where it could then be available for use at the ERF. This may increase the effluent that is



available for use at the ERF to approximately 4,000 ML/yr in a “normal” year.

Effluent in excess of that which cannot be transferred or stored at the ERF will be discharged to the Anabranche of the Peel River in accordance with NSW EPA conditions.

## 6. ERF SUSTAINABILITY AND MANAGEMENT OF SALT

Effluent produced by Westdale WWTP contains salts from domestic and industrial sources and those which are necessary as part of the wastewater treatment process. This salt is irrigated on the ERF and can result in the build-up of salts and changes to the soil properties at the ERF.

It is important that salt accumulation and soil properties are actively managed as part of the ERF operation to ensure that the ERF asset is maintained in a manner that will enable it to continue to operate providing a long term management option for the effluent produced by Westdale WWTP.

During the current operations contract there has been a significant build up of salts and deterioration of soil properties in the, agriculturally important, top 60cm of soil within the irrigated areas of the ERF. This impact has been exacerbated by the ongoing drought conditions that have reduced the opportunity for natural rainfall and irrigation water leaching, due to ongoing dryer than normal weather conditions.

It is therefore necessary to implement operational and management strategies to reduce the concentrations of salts in the higher levels of the soil profile and improve soil properties in the new contract. A detailed review of this issue has been conducted and a plan has been developed to improve ERF operations from a sustainability perspective. This involves the implementation of significantly different cropping and irrigation practices to those that have been used in the current contract.

A key component of the ERF operation moving forward is to change the cropping cycles that are implemented to more effectively manage salt accumulation and soil properties.

Two alternative cropping plans have been developed with input from soil science and agronomy specialists that can be reasonably expected to deliver substantial improvements in soil properties during the period of the new operations contract. The details of these cropping plans are summarised below with further details **ATTACHED**, refer **ANNEXURE 1**.

### Option 1

Summer

- Lucerne/corn/sub tropical grass

Winter

- Wheat/barley/canola

### Option 2

Summer

- Lucerne transition to cotton/corn/sub tropical grass

Winter

- Wheat/barley/canola

Both of these cropping plans involve the use of crops with relatively good salt tolerances in combination with significant fallow periods where stubble from previous cropping cycles will be retained on the surface of the irrigated land to improve the retention and infiltration of rain



and reduce evaporation. This fallow period is an important management strategy to facilitate the movement of salt down through the soil profile to a location where it can be stored outside the zone where it will impact in a negative manner of the soil properties and agricultural productivity of the ERF.

It is recommended that conforming tender offers must offer one of these proposed cropping plans but tenderers will also be able to offer different cropping strategies as alternative tenders as long as they provide suitable backup information that demonstrates how the modified cropping plan will deliver the required water utilisation and sustainability objectives of the project.

The fallow period will primarily also be the period when Gypsum will be applied and also an opportunity to irrigate effluent to assist in leaching of salts out of the root zone. Under the existing operating agreement the operator is responsible for the application of Gypsum and to pay the cost of the additional irrigation for leaching. However, given there is cost involved the operator, has been, and will no doubt, be reluctant to undertake both of these tasks. A better approach is for Council to pay for the costs of the application of Gypsum and for the cost associated with applying additional irrigation for leaching – that way there will be no argument from the operator about undertaking these works, except possibly in relation to timing. By Council assuming responsibility for these activities, Council will be better able to comply with our EPA license conditions and by asking tenderers for the cost for Council to undertake both activities, as part of their tender submissions, Council will be able to include this cost in the tender assessment process.

## **7. RESEARCH AND CROPPING TRIALS**

The ERF has the potential to be of value to industry bodies, universities and government institutions, such as the NSW Department of Primary Industry, as a location to undertake research and cropping trials. These activities could be of direct value to Council, may generate business opportunities locally, or within the region, or may generate information that is of value to the wider agricultural industry.

It is therefore recommended that Council encourage tenderers to explore this as a potential component of their tender offers and/or consider mechanisms within their tender offers where research or cropping trials could be undertaken during the contract period.

## **8. ADDITIONAL PIVOTS**

A key component of achieving the ERF sustainability objectives is to rotate irrigation areas of the ERF out of high intensity irrigation for a period of time. Reduced irrigation intensity will reduce total salt load and allow the historical salt build up to be pushed down through the soil profile.

A detailed water balance has been undertaken in conjunction with the cropping plans which shows that it is highly desirable to bring forward the installation of two planned additional pivots covering an additional 85 Ha to the 2021/22 financial year. Council's current wastewater capital works program has the installation of these additional pivots scheduled in 2025/26 in conjunction with planned capacity upgrades at the Westdale WWTP. It is estimated these works would cost \$700,000.

It is recommended that detailed design of this infrastructure be undertaken during the current (2020/21) financial year using existing budget allocations for the ERF and funding be included in Council's 2021/22 Annual Operating Plan and Budget to bring forward the construction of the additional pivots to assist ERF sustainability and align with the commencement of the new operating contract.

## 9. CONTRACT PAYMENT STRUCTURE

Many different payment structures are available for the Third Party Contractor to pay Council for the right to operate the ERF. These range from a simple nominated annual lease fee, through to payment per volume of effluent used, to a sharing of a percentage of produce sales proceeds.

Following a detailed review of the options available it is recommended the following payment methodology be adopted:

### Contractor Payments to Council

- Farm Operation Charge – A monthly lease fee;
- Effluent Charge - \$/ML of effluent used per month for the guaranteed supply of 3000 ML/yr;
  - note Contractor pays for the full 3,000 ML/yr in a median rainfall year even if they use less and the volume is reduced based on actual rainfall (in line with the EPA licence conditions);
- Additional Effluent Charge - \$/ML for effluent used over and above the 3,000 ML/yr allocation; and
- Contractor Nominated Additional or Alternative Payments – Tenderer's will be able to nominate additional or alternative payment offers as part of an Alternative Tender proposal.

### Council Payments to Contractor

- Council Irrigation Charge - \$/ML for effluent applied as requested by Council for sustainability benefits (not part of Contractors 3,000 ML/yr allocation); and
- prescribed Soil Remediation Charges – costs for items such as gypsum application as required by EPA.

## 10. REMOVAL OF DRYLAND AREA ADJACENT TO THE AIRPORT

The current contract includes the management of the dryland area east of Boltons Creek. This area encroaches upon the Airport Master Plan and is not available for cropping or livestock use.

On this basis it is proposed that management of this dryland area east of Boltons Creek is removed from the ERF contract and reverts to Council management.

## 11. ERF SOLAR SCHEME

The opportunity to install a behind the meter solar scheme was investigated to confirm if solar power could be installed at the ERF to offset electricity usage required for effluent irrigation. GHD were engaged to undertake this investigation with key aspects summarised below, with the full report **ATTACHED**, refer **ANNEXURE 2**.

- system size – 500kW;
- required area – 6000m<sup>2</sup>;
- capital cost - \$1.2M; and
- pay period (Best Case) – 6.6 years.

Based on the best case pay back period of 6.6 years, at this point in time it is recommended that Council not install a behind the meter solar scheme at the ERF. Further investigation

regarding any future solar scheme can be completed during the term of ERF operation contract that further considers future effluent irrigation requirements of the ERF.

## 12. TENDER EVALUATION

The ERF is a critical component of Council's wastewater treatment system as it is the nominated reuse location for Council's treated effluent. Improved and sustainable management of the ERF asset is therefore a necessary outcome from the proposed tender process. On this basis it is proposed that the tender evaluation is undertaken on the following basis:

1. Mandatory Criteria
  - a. *Submission of a Conforming Tender*
  - b. *Satisfactory Financial Capacity*
  - c. *Satisfactory commitment and understanding of WH&S, Environmental & Quality Requirements*
2. Price Criteria – 50%
  - a. *Anticipated commercial return to Council – First 5 years– 35%*
  - b. *Proposed return to Council – Second 5 years (if option granted) – 15%*
3. Non- Price Criteria – 50%
  - a. *Contractor Experience and Personnel – 15%*
  - b. *Farm Operations Plan - 25%*
  - c. *Partnering and Relationship Management Proposal (Including Industry bodies, universities and government institutions) – 10%*

## 13. TENDER PROGRAM

The proposed tender program is as follows:

- Mid September 2020 – Industry Briefing;
- Late September 2020 – Tender Released to Market (10 week tender period);
- December 2020 - Tender Close;
- February/March 2021 – Tender Award; and
- September 2021 – New Contract Commencement.

### (a) Policy Implications

Nil

### (b) Financial Implications

Should Council agree with the recommendation, then the installation of the two new pivots at the ERF at an estimated cost of \$700,000 will be brought forward for possible inclusion in the 2021/22 financial year.

Adjustment of the 2021/22 Annual Operational Plan will be required to reflect the anticipated income from the new ERF operations contract.

### (c) Legal Implications

There will be new contract conditions for the new ERF contract based on the above recommended changes to the tender.

**(d) Community Consultation**

To achieve the maximum exposure for the future ERF operations tender, a communications plan including an industry briefing session will be developed. This plan will target the following groups by a variety of media platforms:

- local agricultural industry;
- agricultural experts;
- agricultural government agencies; and
- university and research centres.

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

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

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## **10 COMMUNITY SERVICES**

### **10.1 2021 TAMWORTH COUNTRY MUSIC FESTIVAL PROPOSED DELIVERY PLAN**

**DIRECTORATE: BUSINESS AND COMMUNITY**

**AUTHOR: Anna Russell, Acting Director Growth and Prosperity**

#### **RECOMMENDATION**

*That in relation to the report “2021 Tamworth Country Music Festival Proposed Delivery Plan”, Council:*

- endorse the proposal to suspend all Council managed activities relating to the Festival due to risks associated with the COVID-19 pandemic; and*
- endorse the production of the 49<sup>th</sup> Country Music Awards of Australia as a virtual event.*

#### **SUMMARY**

The COVID-19 pandemic has created challenges to the delivery of the Tamworth Country Music Festival (“the Festival”) in its traditional format. The NSW Government has banned the delivery of festivals due to the challenges of maintaining social distancing protocols in large crowds. Outdoor gatherings of more than 20 people are banned, international travel has halted, and interstate travel is severely limited. Bars, restaurants, clubs and cafes face limitations on patron numbers and movements.

Under these restrictions Council is unable to legally deliver the usual events and activities in and around the Tamworth CBD.

The production of a series of concerts at the Tamworth Regional Entertainment Conference Centre (TRECC) using appropriate COVID-19 social distancing and hygiene protocols has been considered as an option for providing an opportunity for music fans to visit our region in January 2021. The concerts would showcase leading Australian artists over a seven day period, culminating in the traditional awards ceremony.

However the health, economic and reputational risks associated with possible community exposure to a COVID-19 outbreak in the region resulting from people gathering for events

are considered unacceptably high.

This report details the issues considered in assessing the risks and options for Festival delivery under various pandemic conditions, as well as examining several options for ensuring brand continuity for the future of the Festival beyond the pandemic.

The report is presented to Council with the recommendation that all Council managed activities relating to the Festival are suspended, except for the production of the 49<sup>th</sup> Country Music Awards of Australia (“the Awards”), delivered virtually.

## **COMMENTARY**

### ***Background***

The Tamworth Country Music Festival is the largest country music festival in the southern hemisphere, and attracts up to 50,000 visitors per day over the 10 days, adding over \$50,000,000 to the local economy.

The Festival is owned by the community, with Council delivering logistical, security, marketing, and financial support to drive the Festival delivery. Council also delivers events at Council owned entertainment venues, as well as managing iconic Festival features including the Peel Street busking competition, Festival HQ, street market stalls, outdoors stages, Cavalcade and Riverside camping grounds. Council also produces the climax of the Festival; the Country Music Awards of Australia at TRECC. The 2021 Festival will be the 49<sup>th</sup> consecutive year for the event.

When the COVID-19 pandemic reached Australia, Council staff began planning for possible effects on delivery of the Festival in 2021. As the State Government introduced bans on festivals, and introduced social distancing and contact tracing requirements for venues, restaurants, places of worship, events and outdoor gatherings, it became evident the Festival was not going to be delivered in its traditional format.

Council staff developed a plan for a “Concert Series” to be held at TRECC over seven days in January 2021, culminating in the Awards event on the final Saturday night. If delivered, the Series would showcase the top Australian country music artists, providing some amount of visitation and economic activity in the community. The delivery of this reduced program requires four months to organise and secure artists, and as such a final decision on the format is required by mid September 2020.

### ***Issues for Consideration***

The Festival is a large community driven event, and changes to the traditional format will have significant economic and social impacts across the Tamworth region.

In preparation of this report, a number of areas of impact were taken into account. These include:

- safety of the community and visitors to the region during the COVID-19 pandemic;
- operational logistics challenges in meeting COVID-19 prevention requirements;
- economic impacts on the community and local businesses;
- state and federal government guidelines, restrictions and legislation;
- ethical responsibilities to contribute to COVID-19 prevention across the wider Australian community;
- feedback from community stakeholders;

- relationship with the Country Music industry and stakeholders;
- reputational risk to Council;
- effect of damage to the Tamworth brand;
- long term image of the Festival; and
- the required timing of decisions regarding Festival delivery.

### ***Scenarios for Festival Delivery***

#### **Scenario 1 - Business as Usual**

The usual Festival format includes over 2,000 scheduled events across more than 80 venues. More than 50,000 visitors come from around Australia and the world to see the largest Country Music Festival outside Nashville, USA. Council produces the Annual Awards Ceremony, operates and manages a vibrant CBD zone with over 300 buskers, dozens of street stalls, three concert stages and a series of other community and commercial events. Private stakeholders invest in providing entertainment and other recreational opportunities to visitors, bringing \$50,000,000 into our regional economy.

Under current COVID-19 legislative requirements, detailed in Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 4) 2020, *outdoor gatherings of more than 20 people are banned*. In addition, “*Music Festivals*” (as defined in Music Festivals Act 2019) of any kind are not permitted.

The ban on music festivals is unlikely to be lifted before the planned start date of the Festival. Any attempt to host a festival in its usual format will be illegal.

#### **Scenario 2 – Tamworth “Concert Series”**

With the limitation on festivals in place Council staff prepared a model for delivery of a “Concert Series” to be held at TRECC utilising appropriate social distancing and hygiene protocols. Although operational costs would be higher, and income generated lower than scenario “Business as Usual”, the high profile concerts would enable a continuity of brand for the Festival leading into the 2022 50<sup>th</sup> Anniversary Festival.

However, planning for the “Concert Series” revealed logistical complications in ensuring visitors to the area are not from COVID-19 “hotspots”. Without a mechanism to limit visitors from identified geographical areas, the risk of importing the pandemic into our region will remain.

#### **Scenario 3 – Production of Online Awards Event**

The third scenario considered is the production of a virtual Awards event, streamed around the world. The event would incorporate appearances by major country music artists, as well as provide continuity in marketing of the Festival and Destination Tamworth brands.

### ***The Impact of COVID-19 Restrictions changing between now and January 2021***

Three possible restriction scenarios have been considered in developing options for delivering the 2021 Festival:

- 1) COVID-19 restrictions in NSW remain the same from now until at least January;
- 2) COVID-19 restrictions are eased sometime between now and January; and
- 3) COVID-19 restrictions are strengthened between now and January.



If restrictions remained similar to the current situation, it is *possible*, but not without risk, to deliver a “Concert Series” in lieu of the “Business as Usual” scenario. However planning for the event must include the possibility of conditions changing; increased restrictions in the coming months present significant financial risk to Council, and to other businesses and organisations investing in events. This level of uncertainty for investors, artists and tourists is likely to have a dampening effect on any scheduled programming.

If restrictions were eased between now and January there will be insufficient time to organise events to the required standard.

### ***Risks to the Community***

The Festival is the foundation event for tourism and economic stimulus in the region, and provides a valuable springboard for promotional opportunities of the Tamworth brand. However, the COVID-19 pandemic has amplified a number of risks to the community that may, if the pandemic were to reach our community, overwhelm any immediate or future benefits gained from hosting any events.

In the worst case scenario the COVID-19 pandemic could be brought to the community by festival visitors and spread unchecked until community transmission is not able to be controlled.

In this scenario the region would suffer a tragic loss of life, health authorities and emergency services would be overwhelmed, and many residents would become critically ill. The Festival would also serve as a “super spreader” event putting other regions at risk as visitors returned to their own communities.

In addition to the health implications, the Tamworth region would be “locked down” in a similar way to Melbourne in recent months, crippling economic and business activities, regional tourism, and community life.

The Tamworth brand would be severely damaged, with the Festival being associated with a COVID-19 outbreak for an extended period of time.

Conversely, there are risks associated with limiting the Festival activities as well. The Festival is an important feature on the annual calendar for many country music fans, and the absence of a live music scene in January 2021, may interrupt the habitual tourist patronage. Further, without the annual injection money into the Tamworth Regional economy, local businesses will suffer financially.

### ***Financial Risk to Council***

The operational and management costs of the Festival to the community are offset by income from Council venue ticket sales, corporate sponsor support, income from buskers, street stalls, venue hire, souvenirs, camping fees and publication sales. In 2019/2020 the net financial cost of the Festival to the community was approximately \$568,000.

The impact of the COVID-19 pandemic on Australian businesses has led to ongoing negotiations of the historical sponsorship relationships with Council. The anticipated loss of revenue and visitation, along with significant increases in operational costs to manage social distancing requirements, points to an unquantified increase in the net financial cost of delivering any festival events in 2021.

### ***Delivery of the 49<sup>th</sup> Country Music Awards of Australia***

Every year, on the final Saturday night of the Festival, Council produces the Awards in association with the Country Music Association of Australia (CMAA). The gala night is the



climax of the Festival, bringing the industry and fans together to celebrate excellence and achievements.

Council is committed to delivering the Awards, despite COVID-19 restrictions, to ensure the continuity of the iconic event and the recognition of artists during the most difficult of years for the industry.

The Awards production can be achieved in a COVID-19 safe way by turning to a virtual format. By engaging artists to appear it will be possible to deliver an event showcasing the best of Australian country music talent.

It is anticipated this production can be achieved well within the usual Festival budget. Although the investment will not directly return visitation to the region in 2021, it will contribute to the longer term health of the Festival leading into the 50<sup>th</sup> Anniversary Festival in 2022.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

The cost of production of a virtual Awards event is anticipated to be less than the budget allocated to delivering the 2021 Festival. More detail regarding costs will be available as negotiations with artists and media begin in the coming months.

**(c) Legal Implications**

Nil

**(d) Community Consultation**

Over recent months, as COVID-19 restrictions evolved, Council staff liaised with key venue operators, investors and stakeholders to better understand what the Festival 2021 would look like for them under different scenarios. This informal consultation informed the recommendations in this report.

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

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

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

Nil