



# TAMWORTH REGIONAL COUNCIL

## ORDINARY COUNCIL MINUTES

of the **Meeting of Tamworth Regional Council** held in the **Council Chambers**,  
**4th Floor Ray Walsh House, 437 Peel Street, Tamworth**

**15 DECEMBER 2020**

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

# ORDINARY COUNCIL MINUTES

Meeting of Tamworth Regional Council held in the Council Chambers,  
4th Floor Ray Walsh House, 437 Peel Street, Tamworth  
TUESDAY, 15 DECEMBER 2020 at 6:30PM

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**PRESENT:** Cr Col Murray (Mayor), Cr Phil Betts, Cr Charles Impey, Cr Glenn Inglis, Cr Jim Maxwell, Cr Mark Rodda, Cr Helen Tickle, and Cr Juanita Wilson.

**IN ATTENDANCE:** The General Manager, Director Corporate and Governance, Director Planning and Compliance, Acting Director Growth and Prosperity, Director Regional Services, Director Water and Waste, and Executive Manager, Strategy and Performance.

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## **1 APOLOGIES AND LEAVE OF ABSENCE**

An apology was announced as having been received from Cr Russell Webb who is unable to attend the Meeting due to being out of the City on personal business.

### **MOTION**

#### **Moved Cr Maxwell/Cr Betts**

That the apology be accepted and Cr Russell Webb be granted leave of absence from the Meeting.

**385/20 RESOLVED**

## **2 COMMUNITY CONSULTATION**

### **2.1 ITEM 7.2 DEVELOPMENT APPLICATION No. DA2020-0470 FOR SITE CONSOLIDATION AND CONSTRUCTION AND USE OF A FOOD AND DRINK PREMISES (MCDONALDS), AT LOTS 429 AND 430 DP 1033753, 114-122 PEEL STREET, NORTH TAMWORTH**

Dr Lyn Allen addressed Council in opposition to the recommendation.

### **2.2 ITEM 7.2 DEVELOPMENT APPLICATION No. DA2020-0470 FOR SITE CONSOLIDATION AND CONSTRUCTION AND USE OF A FOOD AND DRINK PREMISES (MCDONALDS), AT LOTS 429 AND 430 DP 1033753, 114-122 PEEL STREET, NORTH TAMWORTH**

Mr Adrian Sippel addressed Council in support of the recommendation.

### **2.3 ITEM 7.2 DEVELOPMENT APPLICATION No. DA2020-0470 FOR SITE CONSOLIDATION AND CONSTRUCTION AND USE OF A FOOD AND DRINK PREMISES (MCDONALDS), AT LOTS 429 AND 430 DP 1033753, 114-122 PEEL STREET, NORTH TAMWORTH**

Ms Rachel McNeil addressed Council in support of the recommendation.

### **3 MINUTES OF PREVIOUS MEETING SUBMITTED FOR APPROVAL**

#### **MOTION**

#### **Moved Cr Tickle/Cr Rodda**

That the Minutes of the Ordinary Meeting held on Tuesday, 1 December 2020, copies of which were circulated, be taken as read and confirmed as a correct record of the proceedings of the Meeting.

**386/20 RESOLVED**

### **4 DISCLOSURE OF INTEREST**

Nil

### **5 MAYORAL MINUTE**

Nil

### **6 NOTICE OF MOTION**

Nil

### **OPEN COUNCIL REPORTS**

### **7 ENVIRONMENT AND PLANNING**

#### **7.1 DRAFT NAMOI UNLIMITED – MANAGING CONTAMINATED OR POTENTIALLY CONTAMINATED LAND POLICY 2019**

**DIRECTORATE: PLANNING AND COMPLIANCE**  
**AUTHOR: Ross Briggs, Manager Compliance**

#### **MOTION**

#### **Moved Cr Inglis/Cr Impey**

That in relation to the report “Draft Namoi Unlimited – Managing Contaminated or Potentially Contaminated Land Policy 2019”, Council:

- (iii) endorse the public exhibition of the Draft Managing Contaminated or Potentially Contaminated Land Policy 2019 for a period of 28 days;
- (ii) following the public exhibition period, if feedback is received, request a further report on the feedback and any amendments to the Draft Policy for consideration and adoption by Council; and
- (iii) following the public exhibition period, if no feedback is received, adopt the Draft Policy as presented.

**387/20 RESOLVED**

**7.2 DEVELOPMENT APPLICATION No.DA2020-0470 FOR SITE CONSOLIDATION AND CONSTRUCTION AND USE OF A FOOD AND DRINK PREMISES (MCDONALDS) AT LOTS 429 AND 430 DP 1033753, 114-122 PEEL STREET, NORTH TAMWORTH**

**DIRECTORATE: PLANNING AND COMPLIANCE**  
**AUTHOR: Amanda Faulkner, Senior Development Assessment Planner**

**MOTION**

**Moved Cr Betts/Cr Tickle**

That in relation to Development Application (DA2020-0470) for consolidation and construction and use of a food and drink premises (McDonalds) at 114-122 Peel Street, North Tamworth (Lots 429 and 430 DP 1033753) approval be granted subject to the following conditions:

**PRIOR TO WORK COMMENCING**

- 1) The approved development which is the subject of this development consent must not be commenced until:
  - a) a construction certificate for the building work has been issued by the consent authority, Council (if Council is not the consent authority) or an accredited Certifier;
  - b) the person having the benefit of the development consent has:
    - i) appointed a Principal Certifying Authority (PCA) for the building work; and
    - ii) notified the PCA that the person will carry out the building work as an owner-builder, if that is the case;
  - c) the PCA has, no later than two days before the building work commences:
    - i) notified the consent authority and Council (if Council is not the consent authority) of his or her appointment; and
    - ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work; and
  - d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
    - i) appointed a principal contractor for the building work who must be the holder of a contractor license if any residential building work is involved;
    - ii) notified the PCA of any such appointment;
    - iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work; and
    - iv) given at least two days' notice to Council of the person's

intention to commence the erection of the building.

- 2) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided:
  - a) must be a standard flushing toilet; and
  - b) must be connected to a public sewer; or
  - c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by Council.

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

- 3) The applicant must ensure that a sign containing the following information is erected in a prominent position and maintained on the site at all times:
  - a) the name, address and telephone number of the Principal Certifying Authority for the work;
  - b) the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
  - c) a statement that unauthorised entry to the work site is prohibited.

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

- 4) The developer must install water pollution, erosion and sedimentation controls in accordance with the "Managing Urban Stormwater - Soils and Construction" published by the NSW Department of Housing ("The Blue Book").
  - 5) The contractors engaged to undertake work on Council land or infrastructure must maintain public liability insurance cover to the minimum value of \$20 million. The policy shall specifically indemnify Council from all claims arising from the execution of the works. Documentary evidence of the currency of the policy shall be provided to Council prior to the commencement of work and upon request, during the progress of the work.
  - 6) A peg out survey prepared by a Registered Surveyor is to be submitted to the Certifying Authority to confirm the building may be sited in accordance with approved plans.
  - 7) Pursuant to Section 68 of the Local Government Act 1993, the following approvals must be obtained:
    - a) carry out water supply work;
    - b) carry out sewer work;
    - c) carry out stormwater work; and
    - d) a trade waste agreement.
  - 8) A Subdivision Works Certificate must be obtained for works in the Marius Street road reserve associated with this development.
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- 9) The contractors engaged on the development must maintain public liability insurance cover to the minimum value of \$20 million. The policy shall specifically indemnify Council from all claims arising from the execution of the works. Documentary evidence of the currency of the policy shall be provided to Council prior to the commencement of work and upon request, during the progress of the work.
- 10) Erosion and sediment control measures that will minimise damage to and avoid pollution of the environment are required for this development. An erosion and sediment control plan (ESCP) is to be prepared in accordance with the "Blue Book" Managing Urban Stormwater –Soils and Construction (Landcom 2004). THE ESCP is to be submitted to Council prior to the commencement of any construction works.
- 11) A Traffic Management Plan (TMP) detailing how movements in and out of the site during the construction will be adequately managed so as not to adversely impact the safe operation of the road network shall be submitted to Council for approval. This TMP shall consider both vehicular and pedestrian movements. Where the TMP is of a level of complexity that Traffic Control Plan's (TCP's) are required, the TCP's shall be prepared by a person with the applicable certification from Roads and Maritime Services (RMS) in accordance with AS1742.3-2009 and the RMS current version of the "Traffic Control at Worksites" manual.
- 12) Prior to construction, any soil that is to be removed as waste, must be tested to determine the appropriate waste classification in accordance with the NSW EPA Waste Classification Guidelines. This testing may occur at the same time as soil investigation and/or geotechnical investigations for engineering design purposes.

**PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE**

- 13) a) In accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979, and the Tamworth Regional Council Section 7.12 (formerly known as S94A) Development Contributions Plan 2013, \$33,365.00 shall be paid to Council to cater for the increased demand for community infrastructure resulting from the development:
  - b) If the contributions are not paid within the financial year that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Development Contributions Plan and the amount payable will be calculated on the basis of the contribution rates applicable at the time of payment in the following manner:

$$\text{\$CPY} = \frac{\text{\$CDC} \times \text{CPIPY}}{\text{CPIDC}}$$

Where:

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

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

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

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

- c) The monetary contributions shall be paid to Council prior to the issue of a Construction Certificate.

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

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

- 14) Any retaining walls greater than 600mm above finished ground level or other approved methods necessary to prevent movement of excavated or filled ground, together with associated stormwater drainage measures, shall be designed by a qualified, practising Structural Engineer. Details are to be included with any Construction Certificate application.
- 15) Section 138 approval from Council under the Roads Act 1993, is required to construct vehicle crossings for this development. Construction plans shall be provided to Council for approval.
- 16) Section 68 approval from Council under the Local Government Act 1993, to carry out stormwater works for this development is required. Detailed stormwater plans and calculations shall be provided to Council for approval.
- 17) Detailed engineering drawings and construction specifications, specific to the works, prepared in accordance with Council's Engineering Design Minimum Standards for Subdivisions and Developments, are required for the following, as a minimum, to ensure all works are designed and constructed in accordance with recognised and accepted standards and guidelines:
- (i) stormwater drainage in Marius Street;
  - (ii) pavement construction including line marking and incorporating in Marius Street;
  - (iii) kerb and gutter in Marius Street;
  - (iv) footpath construction; and
  - (v) water and sewer construction.

All plans are to include details of the location of all existing utility services.

The engineering drawings shall be submitted to Council for approval prior to

the issue of a Subdivision Works Certificate.

All engineering drawings and the associated specifications are to be certified by a person qualified as defined by Council's Engineering Design Minimum Standards for Subdivisions and Developments.

18) An amended Landscape plan shall be submitted to Council for approval that ensures all plant species are suitable for the Tamworth climate. The Landscaping Plan is to be amended in the following ways:

a) The Eucalypt species be replaced with either of the following:

- Eucalyptus leucoxylon
- Eucalyptus sideroxylon

b) The Acacia species be replaced with Melaleuca linariifolia.

#### GENERAL

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

- Architectural Plans prepared by Richmond & Ross, Project No. 190235, Drawing No. A041, Issue I, dated 2 December 2020;
- Architectural Plans prepared by Richmond & Ross, Project No. 190235, Drawing No. A062,801, Issue G, dated 16 October 2020;
- Architectural Plans prepared by Richmond & Ross, Project No. 190235, Drawing No. A067,68 Issue G, dated 2 December 2020;
- Architectural Plans prepared by Richmond & Ross, Project No. 190235, Drawing No. A101 Issue F, dated 14 May 2020;
- Architectural Plans prepared by Richmond & Ross, Project No. 190235, Drawing No. A202,805 Issue E, dated 17 April 2020;
- Architectural Plans prepared by Richmond & Ross, Project No. 190235, Drawing No. A806,807 Issue F, dated 16 October 2020;
- Landscape Plan prepared by Site Image, Project No. SS20-4300, Drawing No. 000,101, Issue G, Dated 2 December 2020;
- Plan of Management prepared by KDC, dated October 2020;
- Waste Management Plan, prepared by McDonalds Australia, no date provided;
- Crime Risk Assessment prepared by KDC, dated 22 April 2020;
- Noise Assessment Report and Supplementary Information, prepared by Muller Acoustic Consulting, dated March 2020; and
- Traffic Impact Report and Supplementary Information prepared by Colston Budd Rodgers & Kafes Pty Ltd, dated March 2020.

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

21) Pursuant to Section 4.17 of the Environmental Planning & Assessment Act

1979, the hours of operation are restricted to 5am – 11pm, 7 days a week for a period of at least six months from the date of commencement of the business.

Written notice at the commencement of the business operations must be provided to Council within seven days of commencement.

A noise validation assessment is to be completed at the conclusion of six months of full operation and a report submitted to Council.

Recommendations for any possible noise mitigation measures must be provided in this report and implemented as soon as practicable following their identification. The noise validation assessment must include evidence demonstrating compliance with Condition No's 80 and a copy of the complaints register as per condition No. 46.

The scope of this validation assessment, including the noise monitoring program, is to be confirmed with Council prior to the assessment being undertaken.

Approval for the commencement of 24 hours/7 days per week operations must not occur and will not be considered until Council's Director Planning and Compliance is satisfied the above requirements have been met and compliance is achieved.

NB: Council's Director Planning and Compliance has the discretion to allow a 24 hour/7 days per week trial period, prior to the implementation of permanent 24 hours/7 days per week hours of operation.

- 22) All building work must be carried out in accordance with the provisions of the National Construction Code (NCC).
- 23) All building work must be carried out in accordance with the provisions of the disability (Access to Premises - Buildings) Standards 2010.
- 24) To protect the amenity of the surrounding neighbourhood from the emission of light, any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with Australian Standard AS4282.
- 25) The development shall be sited and constructed in accordance with the approved site plan. No portion of any proposed structures including any fences or gates shall encroach upon an adjoining property or the road reserve area.
- 26) On-site parking accommodation shall be provided for a minimum of 41 vehicles, to ensure the provision of adequate on-site parking facilities commensurate with the demand likely to be generated by the proposed development. Such parking must be set out generally in accordance with the details indicated on the submitted plans, except as otherwise stated by the conditions of this consent.
- 27) It is the responsibility of the developer to meet all expenses incurred in undertaking the development, including expenses incurred in complying with conditions imposed under this approval.
- 28) All proposed building, site works or property improvement indicated on the

submitted plans or otherwise required under the terms of this consent shall be completed prior to occupation of the premises to ensure compliance with the provisions of the Environmental Planning and Assessment Act 1979.

- 29) Any existing State Survey Mark or Cadastral Survey Mark shall be preserved during construction and not disturbed unless authority has been obtained from the Surveyor-General in accordance with the Surveyor-General's Directions published by the NSW Land and Property Information Service. In this regard, the Principal Contractor is responsible for the protection of the mark.
- 30) The Applicant shall consult with, as required:
- (a) Essential Energy;
  - (b) Natural Gas Company; and
  - (c) a Telecommunications carrier;
- regarding requirements for the provision of services to the development and the location of existing services that may be affected by the proposed works, either on site or on the adjacent public road(s).
- 31) The construction, fit-out and operation of the food preparation and storage areas must comply with the Food Act 2003.

#### Stormwater

- 32) All roof water stormwater discharging from the proposed development site, buildings and works must be conveyed to the approved point of discharge by underground pipe drains complying with AS3500.3 (as amended) to the satisfaction of Council. No effluent or polluted water of any type may be allowed to enter the Council's stormwater drainage system.
- 33) Runoff from all hardstand areas shall be captured on site and piped to the approved point of discharge in accordance with the current version of the Engineering Design Minimum Standards for Subdivisions and Developments.
- 34) Additionally, the stormwater discharge drainage system must be constructed to comply with the following requirements as a minimum:
- (i) all plumbing within the site must be carried out in accordance with relevant provisions of Australian Standard AS/NZS 3500.3 (as amended) Plumbing and Drainage – Stormwater Drainage;
  - (ii) temporary down pipes shall be connected as soon as the roof has been covered so as to not cause a nuisance to adjoining properties;
  - (iii) all overland surface flow paths must have a practical and satisfactory destination with due consideration to erosion and sediment control during all stages of development. A system to prevent overland flows discharging onto adjoining properties shall be implemented;
  - (iv) any interruption to the natural overland flow of stormwater drainage which could result in the disruption of amenity, or drainage or deterioration to any other property or road reserve is not permitted; and

- (v) all overflow from rainwater tanks shall be collected and piped to the approved point of discharge.

Only a single point of discharge is permitted to the approved point of discharge.

- 35) The approved point of discharge for the development site is defined as Council's stormwater pits located on the southern side of Marius Street adjacent to the development site.
- 36) All major flows shall be directed to the Marius Street road reserve so as not to impact any adjoining properties.

#### Roads

- 37) Kerb and gutter shall be constructed on the southern side of Marius Street for the full length of the development site at full cost to the developer. The new kerb is to tie into the existing kerb and gutter on the southern side of Marius Street to direct surface flows away from the development site.
- 38) The Marius Street pavement shall be widened for the full frontage of the lot to be 18m wide and incorporate line marking and kerb and gutter with seal to match the existing. The work shall be designed in accordance with Councils Engineering Design Minimum Standards for Subdivisions and Developments at full cost to the developer.

Advisory Note: The portion of Marius Street fronting the proposed development is classified as a Collector Road.

#### Parking

- 39) All parking areas, shall be designed to comply with Australian Standard 2890.1-2004 'Off-street car parking'.
- 40) To provide for the safety and security of employees and users of the facility, outdoor lighting in accordance with AS1158.3.1 Pedestrian Area (Category PC2) Lighting shall be provided to all off-street parking areas. The lighting installed must comply with AS4282 Control of Obtrusive Effects of Outdoor Lighting.

Advisory Note: The lighting design shall consider the spill to the properties fronting Marius Street and seniors living on the adjacent property.

#### Vehicular Access and Egress

- 41) All internal driveways and parking areas must be constructed with a base course of adequate depth to accommodate heavy vehicle loading, being sealed with either asphaltic concrete, concrete or interlocking pavers.
- 42) The new vehicle layback for access/egress on Marius Street shall have a minimum width of 10.95 metres as indicated on Drawing No A062 Revision G as prepared by Richmond + Ross Consulting Engineers and Project Leaders and be constructed in accordance with Council Standard Drawing number RD009.
- 43) The new reinforced concrete vehicle crossover on Marius Street shall be constructed in accordance with Council's Engineering Design Minimum Standards for Subdivisions and Developments, at the location shown on the drawings provided with the Development Application and shall comply with

the following:

- (i) the alignment of the vehicle crossover across the verge shall be at right angles to Marius Street;
- (ii) the vehicle crossover shall have satisfactory clearance to any power pole or telecommunications pole, manhole cover or marker, or street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the relevant Authority and shall be at the Developer's expense;
- (iii) the vehicle crossover shall be of adequate thickness to accommodate heavy vehicle loading;
- (iv) the vehicle crossover shall be provided with a non-slip finish; and
- (v) The verge adjacent to either side of the vehicle crossover shall be established with turf and finished flush with the new vehicle crossover.

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

#### Pedestrian Access and Egress

- 44) Pedestrian access off Peel Street and Marius Street shall be provided connecting existing and proposed footpaths and must comply with the requirements of AS1428.1-2009 Design for Access and Mobility.
- 45) A 1.5m wide footpath in Marius Street shall be constructed the full length of the development with reinforced concrete in accordance with Council's Standard Drawing RD006 at full cost to the developer. The footpath shall have a 2% fall to the kerb and guttering and shall be provided with a non-slip finish. The verge adjacent to either side of the footpath shall be established with turf and finished flush with the new footpath. Engineering plans for the footpath construction shall be provided to Council for approval.

#### Complaints

- 46) Prior to the commencement of construction of the development, the applicant shall ensure that details of all complaints received through the means listed under this condition shall be recorded in an up-to-date Complaints Register. The Register shall record, but not necessarily be limited to:
  - (i) the date and time, where relevant, of the complaint;
  - (ii) the means by which the complaint was made (telephone, mail or email);
  - (iii) any personal details of the complainant that were provided, or if no details were provided, a note to that effect;
  - (iv) the nature of the complaint;
  - (v) any action(s) taken in relation to the complaint, including any follow-up contact with the complainant; and

- (vi) if no action was taken in relation to the complaint, the reason(s) why no action was taken.

The Complaints Register shall be made available for inspection by Council upon request. Subject to confidentiality, all documents required under this condition shall be made available for public inspection on request.

#### DURING CONSTRUCTION OF WORKS

- 47) Work on the project shall be limited to the following hours to prevent unreasonable disturbance to the amenity of the area:
- Monday to Friday - 7.00am to 5.00pm;
- Saturday - 8.00am to 1.00pm if audible on residential premises, otherwise 7.00am to 5.00pm;
- No work to be carried out on Sunday or Public Holidays if it is audible on residential premises.
- The applicant shall be responsible to instruct and control any sub-contractors regarding the hours of work.
- 48) A copy of the approved and certified plans, specifications and documents incorporating conditions of approval shall be kept on the site at all times and shall be readily available for perusal.
- 49) All building works shall be constructed in accordance with safe work practices and complying with the relevant Australian Standards, Codes of Practice and the National Construction Code (NCC).
- 50) Erosion and sediment control measures in accordance with the ESCP are to be maintained by the developer at all times.
- 51) The Developer shall ensure that dust suppression is undertaken to ensure there is no visible dust emitted due to any works associated with the development. This can be in the form of constant water spraying or other natural based proprietary dust suppressant, to ensure that dust caused by any vehicles moving in, out or within the development site does not cause a nuisance to surrounding properties.
- 52) The following hoarding requirements shall be complied with:
- no third party advertising is permitted to be displayed on any hoarding/fencing proposed to be erected around the subject site; and
  - the construction site manager shall be responsible for the removal of all graffiti from any construction hoardings or the like within the construction area within 48 hours of its operation.
- 53) The approved Traffic Management Plan (inclusive of any resultant Pedestrian Management Plans and the Traffic Control Plans) shall be implemented and any associated barriers, signage and controls shall be maintained in a functional state at all times.
- 54) The footpath and/or road reserve shall not be used for construction purposes or placing of building materials without prior written approval from Council. Approval will only be considered in extreme or highly constrained circumstances.



- 55) If the work involved in the construction of the development is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the closure of a public place, approval from Council's Development Engineering Division is required.
- 56) Any damage caused to Council infrastructure in, on or under the road reserve as a result of works undertaken for the development site shall be rectified by the Developer to the satisfaction of Council so as to ensure the integrity of Council's infrastructure.
- 57) Any spillage of materials onto Council infrastructure, as a result of delivery or handling for this development, must be removed as soon as practicable by the Developer and placed into suitable receptacles for reclamation or disposal in a manner that does not cause pollution of the environment.
- 58) Boundary fences/retaining walls are to be installed between the construction site and identified sensitive receivers as soon as practicable. The acoustic sound barrier on the eastern side of the development must be constructed before construction commences.

#### Traffic, Parking and Access

- 59) All internal driveways, parking areas, loading bays and vehicular turning areas being constructed with a base course of adequate depth to suit design traffic, being sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers and being properly maintained to facilitate the use of vehicular access and parking facilities and to minimise any associated noise and dust nuisance.
- 60) All parking and loading bays shall be permanently marked out on the pavement surface with loading bays and visitor parking facilities being clearly indicated by means of appropriate signs to facilitate the orderly and efficient use of on-site parking and loading/unloading facilities in accordance with Australian Standard 2890

#### Noise

- 61) The activities at the site must not create nuisance or intrusive noise as defined by the Protection of the Environment Operations Act 1997, when measured or assessed in a habitable room of a residential premises. The noise created at the site must also comply with the NSW Noise Policy for Industry 2017.
- 62) Mobile screens and construction hoarding is to be used as barriers between construction works and receivers.
- 63) All plant and equipment must be shut down when not in use and not left to idle. Plant must be operated in a conservative manner.
- 64) Simultaneous use of noisy plant and or equipment must not occur where reasonable and practicable.
- 65) All plant and machinery are to utilise broadband reversing alarms instead of hi frequency reversing alarms.
- 66) All nearby receivers are to be notified in writing at least 5 days prior to commencement of works.

#### Allotment Filling

- 67) All allotment filling that is required for the development site shall meet the requirements of AS3798 (as amended) – Guidelines on Earthworks for Commercial and Residential Developments. Certification of the allotment filling shall be provided by a geotechnical testing authority registered under NATA. The testing authority shall be required to certify whether the fill complies with the requirements of AS2870.1 (as amended) – Residential Slabs and Footings – Construction, as “controlled fill”.

#### Inspections

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

#### PRIOR TO THE RELEASE OF AN OCCUPATION CERTIFICATE

- 69) A Compliance Certificate under Section 306 of the Water Management Act 2000, must be obtained from Council (as the Local Water Supply Authority) prior to the issue of an Occupation Certificate.

#### Water

- a) a single water service must be provided to the lot from Council's DN200mm main on the Northern Side of Marius Street;
- b) any fire service shall be provided to the lot from Council's DN200mm main on the Northern Side of Marius Street;
- c) works shall be undertaken in accordance with Council's Engineering Design Minimum Standards for Subdivisions and Developments; and
- d) work on live water mains is to be undertaken by Council at full cost to the developer.

#### Sewer

- e) a single sewer service must be provided to the lot;
- f) Council's sewerage system shall be extended to provide adequate service to the development;
- g) Engineering design drawings prepared in accordance with Council's Engineering Design Minimum Standards for Subdivisions and Developments for the extension of the sewer system shall be submitted to and approved by Council prior to issue of a Subdivision Works Certificate;
- h) works shall be undertaken in accordance with Council's Engineering Design Minimum Standards for Subdivisions and Developments; and
- i) work on live sewer mains is to be undertaken by Council at full cost to the developer.

Advisory Note: Any pressure sewer system that services the development shall be owned and maintained by the developer. The manhole connecting the service shall be adequately ventilated and sealed with protective lining preventing corrosion.

#### Headworks

- Water – 11.8 ET x \$3,971 = \$46,980
- Sewer – 19.5 ET x \$1,593 = \$31,110

Note: The above headworks contributions have been adopted under the 2020/2021 Council Annual Operational Plan. Revised rates adopted in subsequent Annual Operational Plans will apply to Headworks Contributions paid in later financial years.

#### Trade waste

- j) a liquid trade waste agreement shall be entered into with Council as the Water Authority prior to the provision of an Occupation Certificate; and
  - k) an appropriate pre-treatment facility shall be provided to treat liquid trade waste prior to discharge to the sewer.
- 70) The occupation or use of the whole or any part of a new building must not commence unless an Occupation Certificate has been issued in relation to the building or part.
- 71) The occupation or use of the whole or any part of a new building shall not commence unless a Section 68 Certificate of completion has been issued by Council. The certificate of completion shall not be issued until such time as all relevant conditions of the Section 68 approval have been complied with and all applicable documents received by Council.
- 72) An inspection must be completed by Council's Environmental Health Officers prior to release of an Occupational Certificate to ensure the conditions of consent have been met.
- 73) Documentary evidence of lodgement of the plan of subdivision with NSW Land Registry Services for the consolidation of Lots 429 and 430 DP 1033753 must be provided to the Principal Certifying Authority prior to issue of any Occupation Certificate.
- 74) A written agreement between the Developer of the land and the owner of 58 Marius Street (Lot 28 DP 263313), regarding suitable treatment to the existing dwelling to mitigate vehicle headlight glare from the new driveway on Marius Street, shall be submitted to the Director Planning and Compliance and Principal Certifying Authority prior to the release of any Occupation Certificate.
- 75) For developments where allotment filling has been undertaken, a copy of the NATA testing authority certification for compliance to the requirements of AS2870.1 (as amended) – Residential Slabs and Footings – Construction shall be provided to Council.
- 76) All works as required by these conditions of consent shall be complete.
- 77) A Maintenance Bond in accordance with Section 1.7.3 of the current version of Council's Engineering Design Minimum Standards for Subdivisions and Developments shall be paid to Council for all Council infrastructure works.
- 78) One set of "work-as-executed" plans shall be submitted to Council for approval. The drawings shall be certified by a Registered Surveyor or a

Chartered Professional Civil Engineer.

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

**CONTINUED OPERATIONS**

- 80) Noise from the operation of this development must not exceed the Project Noise Trigger Levels as defined by the NSW EPA Noise Policy for Industry 2017 and listed below:

Project Noise Trigger Level	Sound Pressure Levels dB(A)		
	Day	Evening	Night
Residential Receivers R1-R10 (LAeq,15 min)	51	47	39
Aged Care Residential Receivers (external only) AC1-AC4 (LAeq,15 min)	48	48	48
Aged Care Residential Receivers (internal only) AC1-AC4 (LAeq,15 min)	33	33	33

NB: Day, Evening and Night times are as per the NSW EPA Noise Policy for Industry 2017. (Day: 7am to 6pm Monday-Saturday, 8am to 6pm Sunday and Public Holidays; Evening: 6pm to 10pm; Night: the remaining periods).

- 81) The premises will be subject to an ongoing annual compliance inspection by Council's Environmental Health Officers. This inspection will be charged as per Council's Schedule of Fees and charges at the time of the inspection each year.
- 82) A Traffic Management Plan shall be implemented and maintained for the site that monitors, controls and mitigates the traffic impacts on Council's Road network extending from the development's operations.
- 83) Vehicles shall be loaded or unloaded standing wholly within the premises and within loading bays designated on the submitted plans, or as otherwise provided in accordance with the conditions of this consent to ensure that the proposed development does not give rise to street loading or unloading operations with consequent accident potential and reduction in road efficiency. Under no circumstances are vehicles to be loaded or unloaded at the kerb side, or across the public footpath.
- 84) To ensure that the required parking, loading/unloading facilities and associated driveways are able to function efficiently for their intended purpose, proposed parking areas, service bays, truck docks, driveways, vehicular ramps and turning areas shall be maintained clear of obstruction

and be used exclusively for purposes of car parking, loading and unloading, and vehicle access respectively and under no circumstances are such areas to be used for the storage of goods or waste materials.

- 85) All vehicular movement to and from the site shall be in a forward direction to ensure that the proposed development does not give rise to vehicle reversing movements on or off the Public Road with consequent traffic accident potential and reduction in road efficiency.
- 86) The sealing of vehicle crossovers, internal roads and all vehicular parking areas are to be maintained at all times.
- 87) The on-site stormwater systems shall be maintained at all times so as to ensure their effective operation for their intended purpose.
- 88) The landscaped area of the development is to be maintained at all times.
- 89) The operation of a food premises must comply with the Australia New Zealand Food Standards Code and the Food Act 2003.
- 90) All lighting and signage shall be dimmed or turned off in accordance with the relevant Australian Standard via a timer switch between 11pm and 6am each night.
- 91) Waste collection from the premises must not occur between 10pm and 7am on any given day.

**388/20 RESOLVED**

COUNCILLORS WHO VOTED **FOR**  
THE DECISION

1. Cr Phil Betts
2. Cr Charles Impey
3. Cr Glenn Inglis
4. Cr Jim Maxwell
5. Cr Col Murray, Mayor
6. Cr Mark Rodda
7. Cr Helen Tickle
8. Cr Juanita Wilson

COUNCILLORS WHO VOTED **AGAINST**  
THE DECISION

Nil

## **8 INFRASTRUCTURE AND SERVICES**

### **8.1 AMENDMENT TO THE TAMWORTH REGIONAL COUNCIL PLAN OF MANAGEMENT FOR COMMUNITY LAND**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Paul Kelly, Manager Sports and Recreation

#### **MOTION**

#### **Moved Cr Betts/Cr Maxwell**

That in relation to the report "Amendment to the Tamworth Regional Council Plan of Management for Community Land", Council:

- (i) approve the proposed amendment to the Tamworth Regional Council Plan of Management for Community Land;
- (ii) authorise the public exhibition of the amended Tamworth Regional Council Plan of Management for Community Land for a period of 28 days; and
- (iii) request a further report to be submitted at the completion of the formal exhibition period detailing any submissions received, or alternatively, if no submissions are received, adopt the proposed change to the Plan of Management for Community Land.

**389/20 RESOLVED**

### **8.2 OPEN SPACE MANAGEMENT GUIDE**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Paul Kelly, Manager Sports and Recreation

#### **MOTION**

**Moved Cr Wilson/Cr Impey**

That in relation to the report "Open Space Management Guide", Council adopt the guide titled "Open Space Management Guide".

**390/20 RESOLVED**

### **8.3 TAMWORTH GLOBAL GATEWAY PARK - PROJECT UPDATE**

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

**Reference:** Item 9.1 to Ordinary Council 8 September 2020 - Minute No 275/20  
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

#### **MOTION**

**Moved Cr Tickle/Cr Inglis**

That in relation to the report "Tamworth Global Gateway Park - Project Update", Council:

- (i) receive and note the update on the Tamworth Global Gateway Park project;
- (ii) endorse the recommendation from Transport for New South Wales regarding the closure of the Mahony Avenue pedestrian crossing at the railway on the basis of safety to the community;

- (iii) approve the amount of \$60,000 from the Westdale Land Reserve for external legal costs in relation to preparation and review of legal documents between Qube and Council for the lease and operation of the Intermodal facility;
- (iv) approve the amount of \$35,000 from the Westdale Land Reserve for marketing and media campaign for Stage 1 of the Tamworth Global Gateway Park; and
- (v) approve the amount of \$15,000 from the Westdale Land Reserve for the preparation of Survey Lot Plans and the Intermodal Lease for Stage 1 of the Tamworth Global Gateway Park.

**391/20 RESOLVED**

**8.4 BARRABA TENNIS COURTS HIRE FEES**

**DIRECTORATE: REGIONAL SERVICES**  
**AUTHOR: Paul Kelly, Manager Sports and Recreation**

**MOTION**

**Moved Cr Inglis/Cr Wilson**

That in relation to the report "Barraba Tennis Court Hire Fees", Council:

- (i) place the proposed fees on Public Exhibition for 28 days; and
- (ii) provide a further report at the completion of the formal exhibition period detailing any submissions received, or alternatively, should no submissions be received, adopt the proposed hire fees for inclusion in the Annual Operational Plan.

**392/20 RESOLVED**

**8.5 PROPOSED PURCHASE AND ALLOCATION OF ADDITIONAL GROUNDWATER TO THE SCOTT ROAD DRIFT WELLS**

**DIRECTORATE: WATER AND WASTE**  
**AUTHOR: Daniel Coe, Manager - Water Operations**

**MOTION**

**Moved Cr Betts/Cr Maxwell**

That in relation to the report "Proposed Purchase and Allocation of Additional Groundwater to the Scott Road Drift Wells", Council:

- (i) agree to purchase up to 240 megalitres (ML) of Peel Alluvium water on the temporary market (for 2020/2021) and attach that water to the four Scott Road Drift Wells considered to be extracting Peel Alluvium groundwater; and
- (ii) fund this purchase of temporary water from the Water Reserve.

**393/20 RESOLVED**

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

### **9.1 COUNCIL INVESTMENTS NOVEMBER 2020**

**DIRECTORATE:** CORPORATE AND GOVERNANCE  
**AUTHOR:** Sherrill Young, Manager Financial Services

#### **MOTION**

##### **Moved Cr Inglis/Cr Impey**

That in relation to the report “Council Investments November 2020”, Council receive and note the report.

**394/20 RESOLVED**

### **9.2 ANNUAL OPERATIONAL PLAN 2020/2021 BUDGET VARIATION REPORT - NOVEMBER 2020**

**DIRECTORATE:** CORPORATE AND GOVERNANCE  
**AUTHOR:** Sherrill Young, Manager Financial Services  
**Reference:** Item 9.3 to Ordinary Council 23 June 2020 - Minute No 173/20

#### **MOTION**

##### **Moved Cr Betts/Cr Wilson**

That in relation to the report “Annual Operational Plan 2020/2021 Budget Variation Report – November 2020”, Council note and approve the variations to the existing budget included in the attached annexure.

**395/20 RESOLVED**

### **9.3 SUNDRY DEBTOR WRITE OFF**

**DIRECTORATE:** CORPORATE AND GOVERNANCE  
**AUTHOR:** Lauren McPherson, Senior Accountant

#### **MOTION**

##### **Moved Cr Inglis/Cr Impey**

That in relation to the report “Sundry Debtor Write Off”, Council approve the writing off of sundry debtors totalling \$25,824.11 in accordance with Sections 131 and 213 of the Local Government (General) Regulation 2005.

**396/20 RESOLVED**



## 10 COMMUNITY SERVICES

### 10.1 TAMWORTH REGION ARTS ADVISORY COMMITTEE (TRAAC) - MEETING - 12 NOVEMBER 2020

**DIRECTORATE:** GROWTH AND PROSPERITY  
**AUTHOR:** Bridget Guthrie, Director Tamworth Regional Gallery and Museums

#### MOTION

**Moved Cr Inglis/Cr Wilson**

That in relation to the report "Tamworth Region Arts Advisory Committee (TRAAC) – Meeting – 12 November 2020", Council receive and note the report.

**397/20 RESOLVED**

### 10.2 LUCY IRVINE PUBLIC ART

**DIRECTORATE:** GROWTH AND PROSPERITY  
**AUTHOR:** Bridget Guthrie, Director Tamworth Regional Gallery and Museums

#### MOTION

**Moved Cr Wilson/Cr Tickle**

That in relation to the report "Lucy Irvine Public Art", Council approves the funding for the final production and installation of this public art sculpture at Bicentennial Park.

**398/20 RESOLVED**

### 10.3 CRIME PREVENTION WORKING GROUP (CPWG) - MEETING - 13 NOVEMBER 2020

**DIRECTORATE:** PLANNING AND COMPLIANCE  
**AUTHOR:** Gino Tiberi, Crime Prevention Officer

#### MOTION

**Moved Cr Impey/Cr Betts**

That in relation to the report "Crime Prevention Working Group (CPWG) – Meeting – 13 November 2020", Council receive and note the minutes.

**399/20 RESOLVED**

### 10.4 REQUEST TO REIMBURSE DEVELOPMENT APPLICATION FEES AND CHARGES

**DIRECTORATE:** CORPORATE AND GOVERNANCE  
**AUTHOR:** Chris Weber, Director Corporate and Governance

**MOTION**

**Moved Cr Tickle/Cr Wilson**

That in relation to the report “Request to Reimburse Development Application Fees and Charges”, Council:

- (i) receive and note the report; and
- (ii) determine to deny the request as outlined in the body of the report.

**THE MOTION WAS LOST**

**MOTION**

**Moved Cr Inglis/Cr Betts**

That in relation to the report “Request to Reimburse Development Application Fees and Charges”, Council:

- (i) receive and note the report; and
- (ii) determine to approve the request as outlined in the body of the report.

**400/20 RESOLVED**

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

At 7.40pm, the Chairperson offered the opportunity to members of the public to make representations as to whether any part of the Council Meeting should not be considered in Closed Council.

The General Manager advised the Chairperson that no written public submissions or representations had been received as to whether or not part of the Meeting should be closed to the public. The Chairperson asked any members of the Council whether any part of the Council Meeting should not be considered in Closed Council.

**MOTION**

**Moved Cr Inglis/Cr Maxwell**

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

**401/20 RESOLVED**

**11.1 SUPPLY OF DRY HIRED PLANT**

**DIRECTORATE: REGIONAL SERVICES**

**AUTHOR: George Shearman, Manager Plant, Fleet and Building Services**

**Reference: DOCUMENTS TABLED**

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

### **11.2 SUPPLY OF WET HIRED PLANT**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** George Shearman, Manager Plant, Fleet and Building Services  
**Reference:** DOCUMENTS TABLED

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

### **11.3 TENDER T061/2021 TAMWORTH SHARED PATH LIGHTING**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Mark Gardiner, Senior Project Management Engineer  
Jonathon Dunlop, Projects Engineer (Rotation)

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

### **11.4 TENDER T067/2021 CAST IN-SITU CONCRETE WORKS FOR TAMWORTH GLOBAL GATEWAY PARK TRUNK STORMWATER**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Mark Gardiner, Senior Project Management Engineer  
**Reference:** Item 12.4 to Ordinary Council 11 February 2020 - Minute No 26/20  
Item 12.2 to Ordinary Council 13 October 2020 - Minute No 321/20

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

### **11.5 PROPOSED ACQUISITION FOR CORNER REALIGNMENT SAFETY UPGRADE - DAVIDSONS LANE**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Callum Fletcher, Senior Project Engineer  
**Reference:** Item 11.5 to Ordinary Council 17 November 2020 - Minute No 363/20

**3 CONFIDENTIAL ENCLOSURES ENCLOSED**

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

**11.6 TENDER T026/2021 YOUTH TRAINING CAFE, VIADUCT PARK TAMWORTH, DESIGN AND CONSTRUCT**

**DIRECTORATE: REGIONAL SERVICES**

**AUTHOR: Mark Gardiner, Senior Project Management Engineer**

**Reference: Item 8.2 to Ordinary Council 26 May 2020 - Minute No 126/20**

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

**11.7 POSSIBLE ACQUISITION OF A PORTION OF PROPERTY FOR ROAD WIDENING AND THE ACQUISITION OF AN EASEMENT - BYLONG ROAD**

**DIRECTORATE: CORPORATE AND GOVERNANCE**

**AUTHOR: Kirrilee Ringland, Manager Property and Legal Services**

**Reference: Item 14.5 to Ordinary Council 9 April 2019 - Minute No 118/19**

**1 CONFIDENTIAL ENCLOSURES ENCLOSED**

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

**11.8 TENDER T060/2021 SPRAYED BITUMEN SEALING OF LOCAL, REGIONAL, STATE AND NATIONAL ROADS**

**DIRECTORATE: REGIONAL SERVICES**

**AUTHOR: Murray Russell, Business Improvement Review - Regional Services**

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

**11.9 TENDER T068/2021 ROUNDABOUT CONCRETING WORKS AT THE OXLEY HIGHWAY AND COUNTRY ROAD INTERSECTION UPGRADE**

**DIRECTORATE: REGIONAL SERVICES**

**AUTHOR: Murray Russell, Business Improvement Review - Regional Services**

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

**11.10 PROPOSAL FROM THE UNIVERSITY OF NEW ENGLAND**

**DIRECTORATE: CORPORATE AND GOVERNANCE**

**AUTHOR: Kirrilee Ringland, Manager Property and Legal Services**

**3 CONFIDENTIAL ENCLOSURES ENCLOSED**

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

**11.11 SALE OF TAMWORTH GLOBAL GATEWAY PARK LAND**

**DIRECTORATE: REGIONAL SERVICES**

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

**Reference: Item 9.1 to Ordinary Council 8 September 2020 - Minute No 275/20**

**1 CONFIDENTIAL ENCLOSURES ENCLOSED**

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

## CLOSED COUNCIL

### Confidential Reports

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

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

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

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

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

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

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

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

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

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

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

#### Resolutions passed in Closed Council

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

## 12 CLOSED COUNCIL REPORTS

### 12.1 SUPPLY OF DRY HIRED PLANT

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** George Shearman, Manager Plant, Fleet and Building Services

**Reference:** DOCUMENTS TABLED

#### MOTION

##### Moved Cr Inglis/Cr Maxwell

That in relation to the report “Supply of Dry Hired Plant”, Council:

- (i) accept the compliant tenders received, as a panel for the supply of “dry” hired plant to Tamworth Regional Council on a price, availability and satisfactory level of service basis, for a period of two years commencing 1 January 2021; and
- (ii) approve the option for up to a 12 month extension of this Panel Tender in the event that a compliant process cannot be completed by the deadline.

**402/20 RESOLVED**

### 12.2 SUPPLY OF WET HIRED PLANT

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** George Shearman, Manager Plant, Fleet and Building Services

**Reference:** DOCUMENTS TABLED

#### MOTION

##### Moved Cr Wilson/Cr Tickle

That in relation to the report “Supply of Wet Hired Plant”, Council:

- (i) accepts the compliant tenders received as the panel for the supply of “wet” hired plant to Tamworth Regional Council on a price, availability and satisfactory level of service basis for a period of two years commencing 1 January 2021; and
- (ii) approve the option for up to 12 month extension of this panel tender in the event that a compliant process cannot be completed by the deadline.

**403/20 RESOLVED**

### 12.3 TENDER T061/2021 TAMWORTH SHARED PATH LIGHTING

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Mark Gardiner, Senior Project Management Engineer  
Jonathon Dunlop, Projects Engineer (Rotation)

#### MOTION

##### Moved Cr Rodda/Cr Tickle

That in relation to the report “Tender T061/2021 Tamworth Shared Path Lighting”, Council:

- (i) approve execution of a schedule of rates contract with Ardina Electrical (Northwest) Pty Ltd (28 001 007 423) for the design and construction of the Tamworth Shared Path lighting project; and
- (ii) authorise the Seal of Council be affixed to this contract.

**404/20 RESOLVED**

#### **12.4 TENDER T067/2021 CAST IN-SITU CONCRETE WORKS FOR TAMWORTH GLOBAL GATEWAY PARK TRUNK STORMWATER**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Mark Gardiner, Senior Project Management Engineer  
**Reference:** Item 12.4 to Ordinary Council 11 February 2020 - Minute No 26/20  
Item 12.2 to Ordinary Council 13 October 2020 - Minute No 321/20

#### **MOTION**

**Moved Cr Betts/Cr Impey**

That in relation to the report “Tender T067/2021 Cast In-Situ Concrete Works for Tamworth Global Gateway Park Trunk Stormwater”, Council:

- (i) accept the tender submitted by Folwick Construction Pty Ltd (ABN 21 159 641 540), for an initial lump sum contract of \$2,724,013.64 excluding GST, for construction of the cast in-situ concrete works for the Tamworth Global Gateway Park Trunk Stormwater drainage project;
- (ii) accept the tendered prices for optional items for inclusion in the contract if the project budget permits; and
- (iii) authorise the Seal of Council to be affixed to this contract.

**405/20 RESOLVED**

#### **12.5 PROPOSED ACQUISITION FOR CORNER REALIGNMENT SAFETY UPGRADE - DAVIDSONS LANE**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Callum Fletcher, Senior Project Engineer  
**Reference:** Item 11.5 to Ordinary Council 17 November 2020 - Minute No 363/20

**3 CONFIDENTIAL ENCLOSURES ENCLOSED**

#### **MOTION**

**Moved Cr Betts/Cr Maxwell**

That in relation to the report “Proposed Acquisition for Corner Realignment Safety Upgrade – Davidsons Lane”, Council:

- (i) authorise the Mayor and General Manager to negotiate the terms of the proposed acquisition of the relevant properties;
- (ii) authorise the execution by Council of Deeds of Agreement, plans of subdivision and accepting the dedication of the land as a public road;



- (iii) authorise the affixing of the Seal of Council to the Deeds of Agreement, plans and any other documents required to give effect to Council's resolution; and
- (iv) approve the use of the Civil Construction Reserve to fund the acquisition of the property and associated costs.

**406/20 RESOLVED**

### **12.6 TENDER T026/2021 YOUTH TRAINING CAFE, VIADUCT PARK TAMWORTH, DESIGN AND CONSTRUCT**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Mark Gardiner, Senior Project Management Engineer  
**Reference:** Item 8.2 to Ordinary Council 26 May 2020 - Minute No 126/20

#### **MOTION**

**Moved Cr Wilson/Cr Impey**

That in relation to the report "Tender T026/2021 Youth Training Café, Viaduct Park Tamworth, Design and Construct", Council:

- (i) accept the tender submitted by Shay Brennan Constructions Pty Ltd (ABN 70 060 780 412), for an initial lump sum contract of \$510,084 excluding GST, for the Design and Construction of the Youth Training Café at Viaduct Park;
- (ii) accept the tendered prices for optional items, for inclusion in the contract if the project budget permits; and
- (iii) authorise the Seal of Council to be affixed to this contract.

**407/20 RESOLVED**

### **12.7 POSSIBLE ACQUISITION OF A PORTION OF PROPERTY FOR ROAD WIDENING AND THE ACQUISITION OF AN EASEMENT - BYLONG ROAD**

**DIRECTORATE:** CORPORATE AND GOVERNANCE  
**AUTHOR:** Kirrilee Ringland, Manager Property and Legal Services  
**Reference:** Item 14.5 to Ordinary Council 9 April 2019 - Minute No 118/19

**1 CONFIDENTIAL ENCLOSURES ENCLOSED**

#### **MOTION**

**Moved Cr Tickle/Cr Inglis**

That in relation to the report "Possible Acquisition of a Portion of a Property for Road Widening and the Acquisition of an Easement – Bylong Road", Council:

- (i) confirm Council's Resolution dated 9 April 2019, in respect of the acquisition of an easement to drain water more fully described in the body of this report concerning Lot 5A DP 38886; and
- (ii) authorise the Mayor and General Manager to make application to the Minister for Local Government, and the Governor of New South Wales for the acquisition as indicated in the body of this report pursuant to both Section 30 of the Land Acquisition (Just Terms Compensation) Act 1991, and Section 186(1) of the Local Government Act 1993.

**408/20 RESOLVED**

**12.8 TENDER T060/2021 SPRAYED BITUMEN SEALING OF LOCAL, REGIONAL, STATE AND NATIONAL ROADS**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Murray Russell, Business Improvement Review - Regional Services

**MOTION**

**Moved Cr Wilson/Cr Maxwell**

That in relation to the report “T060/2021 Sprayed Bitumen Sealing of Local, Regional, State and National Roads”, Council:

- (i) accept the schedule of rates tender submitted by Boral Asphalt (ABN 53 000 102 376) for Sprayed Bitumen Sealing of Local, Regional, State and National Roads; and
- (ii) authorise the Seal of Council to be affixed to the contract documents for the Sprayed Bitumen Sealing of Local, Regional, State and National Roads.

**409/20 RESOLVED**

**12.9 TENDER T068/2021 ROUNDABOUT CONCRETING WORKS AT THE OXLEY HIGHWAY AND COUNTRY ROAD INTERSECTION UPGRADE**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Murray Russell, Business Improvement Review - Regional Services

**MOTION**

**Moved Cr Rodda/Cr Tickle**

That in relation to the report “Tender T068/2021 Roundabout Concreting Works at the Oxley Highway and Country Road Intersection Upgrade”, Council:

- (i) decline to accept any of the tenders; and
- (ii) agree to carry out the concreting works using Council staff.

**410/20 RESOLVED**

**12.10 PROPOSAL FROM THE UNIVERSITY OF NEW ENGLAND**

**DIRECTORATE:** CORPORATE AND GOVERNANCE  
**AUTHOR:** Kirrilee Ringland, Manager Property and Legal Services  
**3 CONFIDENTIAL ENCLOSURES ENCLOSED**

**MOTION**

**Moved Cr Inglis/Cr Wilson**

That in relation to the report “Proposal from the University of New England”, Council:

- (i) consider the proposal from the University of New England (UNE) as detailed in the body of this report;

- (ii) authorise the Mayor and General Manager to negotiate and enter into agreements with UNE as detailed in the body of this report; and
- (iii) authorise the Seal of Council to be affixed to any Lease and Licence Agreements and associated documents.

**411/20 RESOLVED**

### **12.11 SALE OF TAMWORTH GLOBAL GATEWAY PARK LAND**

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

**Reference:** Item 9.1 to Ordinary Council 8 September 2020 - Minute No 275/20

1 CONFIDENTIAL ENCLOSURES ENCLOSED

#### **MOTION**

**Moved Cr Inglis/Cr Betts**

That in relation to the report "Sale of Tamworth Global Gateway Park Land", Council:

- (i) authorise the Mayor and General Manager to negotiate the sale of land in the area identified as Stage 1 of the Tamworth Global Gateway Park as set out in the body of the report; and
- (ii) authorise the affixing of the Seal of Council to any contracts for sale and associated documentation required to complete such a sale.

**412/20 RESOLVED**

### **13 RESOLUTIONS PASSED IN CLOSED COUNCIL**

#### **MOTION**

**Moved Cr Inglis/Cr Betts**

That Council move into Open Council

**413/20 RESOLVED**

At 8.20pm the meeting moved back into Open Council.

In accordance with the Tamworth Regional Council Code of Meeting Practice, Section 14.21, the Chairperson provided a summary of the resolutions passed in Closed Council.

**Closure:** There being no further business the Ordinary Meeting of Council concluded at 8.20pm.

Cr Col Murray, Chairperson

Tuesday, 9 February 2021

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