



TAMWORTH REGIONAL COUNCIL

EXTRAORDINARY COUNCIL MINUTES

of the **Meeting of Tamworth Regional Council** held in the **Council Chambers, Lands Building, 25-27 Fitzroy Street, Tamworth**

24 APRIL 2025

**PAUL BENNETT
GENERAL MANAGER**

ORDINARY COUNCIL

MINUTES

Meeting of Tamworth Regional Council held in the Council Chambers, Lands Building,
25-27 Fitzroy Street, Tamworth
THURSDAY 24 APRIL 2025 at 5:30PM

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PRESENT: Cr Russell Webb (Mayor), Cr Jeffrey Budd, Cr Matt Sharpham, Cr Charles Impey, Cr Ryan Brooke, Cr Brendan North, Cr Mark Rodda, Cr Marc Sutherland.

IN ATTENDANCE: Director Liveable Communities, Director Regional Services, Acting Director Water and Waste, and Acting Executive Manager Strategy and Performance.

1 APOLOGIES AND LEAVE OF ABSENCE

An apology was announced as having been received from Cr Stephen Mears who is unable to attend the Meeting due to being away for work.

RECOMMENDATION

That the apology be accepted and Cr Stephen Mears be granted leave of absence from the Meeting.

2 COMMUNITY CONSULTATION

2.1 ITEM 7.1 RELEASE OF RESTRICTION ON THE USE OF LAND AND DA2025-0287 FOR THE CONSTRUCTION OF A SPECIALISED RETAIL PREMISES, SHOPS AND ASSOCIATED WORKS ON LOT 1 IN DP 1304039

Stephen Barr addressed Council in support of the recommendation.

3 MINUTES OF PREVIOUS MEETING SUBMITTED FOR APPROVAL

Nil

4 DISCLOSURE OF INTEREST

Cr Brendon North declared an interest in Item 7.1 'Release of Restriction on the Use of Land and DA2025-0287 for the Construction of a Specialised Retail Premises, Shops and Associated Works on Lot 1 in DP 1304036 – 408 Goonoo Goonoo Road, Hillvue NSW 2340 for the reason being that once the development is complete, there may be supermarkets or grocery stores within precinct that may compete with his current business's. Cr North further stated that this was a less than significant, non-pecuniary interest and that he would remain in the Chamber and participate in the debate.

Cr Brendon North declared an interest in Item 12.2 'Request to Transfer Lease of Hopscotch Café and Restaurant – Part Lot 73 Deposited Plan 1107041' for the reason that the Lease Holder is a customer of his private business. Cr North further stated that this was Pecuniary Interest and that he would leave the Chamber and not participate in the debate.

5 MAYORAL MINUTE

Nil

6 NOTICE OF MOTION

Nil

OPEN COUNCIL REPORTS

7 ENVIRONMENT AND PLANNING

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

DIRECTORATE:

LIVEABLE COMMUNITIES

AUTHOR:

Alice Eilsley, Team Leader - Development Assessment

MOTION

Moved Cr Sharpham/Cr Sutherland

That, in relation to the report 'Release of Restriction on the Use of Land and Development Application No. DA2025-0287 for construction of a specialised retail premises, shops and associated works on Lot 1 in DP 1304039 – 408 Goonoo Goonoo Road HILLVUE NSW 2340", Council:

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

General Conditions of Consent

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

Approved Plans				
Plan Title	Revision/Issue	Plan/Sheet No.	Drawn/Issued By	Date of Plan
Cover Sheet, Existing Conditions Plan, Proposed Site Plan, Ground Floor Plan – LFR 1 and 2, Ground Floor Plan – Retail (Shops) 1 and 2, Roof Floor Plan – LFR 1 and 2, Roof Plan – Retail (Shops) 1 and 2, Elevations – LFR 1 and 2, Elevations –	B	DA001, DA015, DA020, DA101, DA102, DA111, DA112, DA151, DA152, DA153, DA161, DA162, DA171,	Leffler Simes Architects	08/04/2025 and 17/04/2025

Retail (Shops) 1 and 2, North Elevation – Overall, Sections – LFR and Retail (Shops) 1 and 2, Signage Details – Sheets 1 and 2, Shadow Diagrams – Sheets 1 and 2 (as amended in red)		DA172, DA201 and DA202		
Landscaping Plans	A	LPDA 25 – 148, Pages 1 to 9 of 9	Concept	17/04/2025
Approved Documents				
Statement of Environmental Effects	Final	24BAS0095	Barr Planning	12/02/2025
Applicant's Response to Request for Further Information (RFI) and Amendment to DA2025-0287	-	24BAS0095	Barr Planning	09/04/2025
Applicant's Clause 4.6 Report	Final	24BAS0095	Barr Planning	09/04/2025
Economic Impact Assessment Memorandum	-	-	GapMaps	07/02/2025
Transport Impact Assessment and Response to Submission	v01	P2942	Ason Group	06/02/2025 and 08/04/2025

In the event of any inconsistency between the conditions of this approval and the drawings/documents referred to above, the conditions of consent shall prevail.

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

b) Landscaping, carparking, fencing, signage and retaining walls.

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

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

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

5) It is the responsibility of the developer to meet all expenses incurred in undertaking the development, including expenses incurred in complying with conditions imposed under this approval.

6) The Applicant shall consult with, as required:

- a) natural gas company;
- b) a telecommunications carrier; and
- c) Essential Energy;

regarding their requirements for the provision of services to the development and the location of existing services that may be affected by the proposed works, either on site or on the adjacent public road(s).

7) All building work must be carried out in accordance with the provisions of the National Construction Code and Disability (Access to Premises – Buildings) Standard 2010.

8) Any existing State Survey Mark or Cadastral Survey Mark shall be preserved during construction and not disturbed unless authority has been obtained from the Surveyor-General in accordance with the Surveyor-General's Directions published by the NSW Land and Property Information Service. In this regard, the Principal Contractor is responsible for the protection of the mark.

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

Prior to the Commencement of Works

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

- a) a Construction Certificate for the building work has been issued by the consent authority, Council (if Council is not the consent authority) or an accredited Certifier;
- b) the person having the benefit of the development consent has:
 - i) appointed a Principal Certifier for the building work; and
 - ii) notified the Principal Certifier that the person will carry out the building work as an owner-builder, if that is the case;
- c) the Principal Certifier has, no later than two days before the building work commences:
 - i) notified the consent authority and Council (if Council is not the consent authority) of his or her appointment; and

- ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work; and
- d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - i) appointed a Principal Contractor for the building work who must be the holder of a contractor license if any residential building work is involved;
 - ii) notified the Principal Certifier of any such appointment;
 - iii) unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work; and
 - iv) given at least two days' notice to Council of the persons intention to commence the erection of the building.

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

- a) the name, address and telephone number of the Principal Certifier for the work;
- b) the name of the Principal Contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- c) a statement that unauthorised entry to the work site is prohibited.

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

12) The contractors engaged on the development must maintain public liability insurance cover to the minimum value of \$20 million. The policy shall specifically indemnify Council from all claims arising from the execution of the works. Documentary evidence of the currency of the policy shall be provided to Council prior to the commencement of work and upon request, during the progress of the work.

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

Construction Environmental Management Plan

14) A Construction Environmental Management Plan shall be prepared in consultation with, and submitted to, Council prior to the commencement of works. The plan shall include, but not be limited to, the following matters which are to be addressed by a suitably qualified person(s).

- a) Hours of work, which must be in accordance with the conditions of this approval;
- b) Contact details of the site manager and all principal contractors;
- c) Traffic Management Plan (TMP) detailing how movements in and out of the site during the construction will be adequately managed so as not to adversely impact the safe operation of the road network shall be submitted to Council. This TMP shall consider both vehicular and

pedestrian movements. Where the TMP is of a level of complexity that Traffic Guidance Schemes (TGS's) are required, the TGS's shall be prepared by a person with the applicable certification from Transport for New South Wales (TfNSW) in accordance with AS 1742.3 (as amended) and the TfNSW current version of the "Traffic Control at Worksites" manual.

- d) Construction waste management.
- e) Construction noise and vibration management, identifying specific activities that will be carried out and associated noise sources, identify all potentially affected sensitive receivers, noise and vibration monitoring reporting and response procedures, description of specific mitigation treatments management measures and procedures to be implemented, and address any other relevant provisions of Australian Standard 2436; and
- f) Dust control measures to be implemented to prevent the movement of airborne particles from the site throughout the construction process, and the tracking of material from the site by trucks and other vehicles. This is to include the appropriate use of physical barriers and the dampening of exposed excavated surfaces. The storage and stockpiling areas for material is also to be detailed.

- 15) Prior to the commencement of works, a peg-out survey prepared by a Registered Surveyor shall be provided to the Certifier to confirm that the development can be sited in accordance with the approved plans.
- 16) Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).

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

- 17) a) Prior to any road works within the Goonoo Goonoo Road Reserve (New England Highway) road reserve, the following documents must be prepared and submitted for approval from Council's Director of Liveable Communities in consultation with Transport for NSW (TfNSW):
 - i. A warrant assessment for traffic control measures in accordance with relevant RMS and Austroads guidelines.
 - ii. A strategic design of the proposed intersection upgrade at Goonoo Goonoo Road and Craigends Lane;
 - iv. Traffic modelling demonstrating the intersection's ability to achieve an acceptable Level of Service under peak conditions, as per Austroads Guide to Traffic Management – Part 4.
- b) If the traffic modelling indicate that the current proposed dual-lane roundabout is not sufficient to achieve the required performance outcomes, the following must occur:
 - submission of plans which show revised intersection treatment options, which may include a signalised intersection, for approval by Council's Director of Liveable Communities in consultation with Transport for NSW (TfNSW);
 - obtain consent from Transport for NSW (TfNSW) in accordance with Section 138 of the Roads Act 1993 for all works within the classified State road (Goonoo Goonoo Road) reserve in the form of a Works Authorisation Deed (WAD).
- if appropriate, lodge and obtain approval for a modification application to the Development Consent under section 4.55 of the Environmental Planning and Assessment Act 1979.

18) The following documents must be prepared and submitted for approval by Council's Director of Liveable Communities in consultation with Transport for NSW (TfNSW)

- a) Preliminary and detailed design plans for a signalised pedestrian crossing (or alternative pedestrian-activated traffic control facility, if deemed appropriate by TfNSW) across Goonoo Goonoo Road, including plan views, elevations (where applicable), signage and line-marking layouts, pedestrian/cyclist refuge design and any proposed kerb ramps.
- b) A pedestrian and cyclist movement and connectivity report that demonstrates how the proposed crossing accommodates safe movement for both pedestrians and cyclists, integration with existing and proposed footpaths, cycleways, public transport stops, desire lines, and any required treatments to support safe access for vulnerable users (e.g. children, people with disabilities).
- c) A design compliance statement, signed by a suitably qualified traffic or transport engineer, confirming that the design complies with Austroads Guide to Road Design – Part 6A: Pedestrian and Cyclist Paths, and any applicable TfNSW standards and technical specifications. Any departures from standards are identified and justified.
 - i. if appropriate, obtain an amended Works Authorisation Deed (WAD) from TfNSW.
 - ii. if appropriate, lodge and obtain approval for a modification application to the Development Consent under section 4.55 of the Environmental Planning and Assessment Act 1979.
- d) If traffic modelling indicate the dual-lane roundabout is sufficient the following must occur:
 - i. submission of a warrants assessment in accordance with TfNSW Traffic Signal Design is to be provided to support the installation of signalised mid-block pedestrian crossing.
 - ii. obtain consent from Transport for NSW (TfNSW) in accordance with Section 138 of the Roads Act 1993 for all works within the classified State road (Goonoo Goonoo Road) reserve in the form of a Works Authorisation Deed (WAD).
 - iii. if appropriate, lodge and obtain approval for a modification application to the Development Consent under section 4.55 of the Environmental Planning and Assessment Act 1979.

Prior to Issue of a Construction Certificate

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

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

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

CPIDC

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

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

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

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

Where:

c) The monetary contributions shall be paid to Council:

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

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

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

- 20) The developer must submit to Council a copy of the Aboriginal Heritage Impact Permit (AHIP 5206) issued by Heritage NSW under Section 90 of the National Parks and Wildlife Act 1974 relating to Lot 1 DP 1304039.
- 21) Prior to the issue of a Construction Certificate, detailed construction plans and specifications that demonstrate compliance with the requirements of the NCC must be submitted to the Certifier for approval. If there are any non-compliance with the deemed-to-satisfy provisions of the NCC, an alternate method of compliance must be submitted with all supporting documents prepared by suitably qualified persons.
- 22) A Fire Safety Schedule must be issued with the Construction Certificate in accordance with Clauses 78 and 79 of the Environmental Planning & Assessment (Development Certification and Fire Safety) Regulation 2021 and include fire safety measures pertaining to the entire building.
- 23) Pursuant to Section 306 of the Water Management Act 2000, Council (as the Local Water Supply Authority) requires the following contribution payments to be made prior to issue of any Construction Certificate.
 - a) Headworks (Additional):

- i) Water = \$352,404
- ii) Sewer = \$130,947

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

- 24) The developer must produce written evidence that an agreement can be put in place with Council's Water and Waste Directorate or a waste collection contractor for the collection of rubbish bins from private property prior to issue of any Construction Certificate.
- 25) Prior to the issue of a Construction Certificate, an approval from Council under Section 138 of the Roads Act 1993 is required to construct vehicle accesses and a central median the full length of the internal road between the Goonoo Goonoo Road intersection and the first internal roundabout which is required for this development. Detailed engineering drawings and construction specifications, specific to the works prepared in accordance with Council's Engineering Design Minimum Standards shall be submitted with an application for the Section 138 approval.
- 26) Prior to the issue of a Construction Certificate, a stormwater servicing strategy for the development site shall be prepared and submitted to Council for approval. The stormwater servicing strategy shall be prepared in accordance with the requirements of Minimum Standards for Stormwater Drainage of Council's current version of Engineering Design Minimum Standards, and shall be used to inform the detailed stormwater drainage design for the development site.
The stormwater servicing strategy for this development must also include calculations and associated commentary for the following:
 - a) assessment and preparation of management strategies for the catchments contributing to the Barnes Gully and Yellow Gully to demonstrate that there will be no negative impacts on downstream properties and infrastructure. This shall include an assessment of the requirement for detention of flows, including recommendations around detention of flows;
 - b) minor stormwater network including conveyance of flows to Barnes Gully and Yellow Gully;
 - c) overland flow paths for excess flows generated by storms up to the 1% AEP;
 - d) any post developed flows leaving the site (detained and/or un-detained); and
 - e) if the development cannot meet any required detention and/or drainage infrastructure requirements of Council's Engineering Design Minimum Standards, a modification to the Development Application will be required to be submitted and approved.
- 27) Prior to the issue of a Construction Certificate, any approvals required under Section 68, Parts A to F, of the Local Government Act 1993, for the development shall be obtained from Council. This may include but is not limited to the following approvals:
 - a) carry out water supply work;

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

28) Retaining walls greater than 600mm above finished ground level or other approved methods necessary to prevent movement of excavated or filled ground, together with associated stormwater drainage measures, shall be designed by a qualified practicing structural engineer. Details are to be included with any Construction Certificate application.

29) Prior to the issue of a Construction Certificate, detailed plans of the mechanical exhaust ventilation system must be prepared by a suitably qualified person. The detailed plans must be in accordance with the following and submitted to the Council:

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

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

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

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

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

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

- a) provision for the charging of electric vehicles within the carpark and electrical design for the same, if required by the NCC;
- b) adoption of the recommended measures in the Ecological Sustainable Development Report prepared by EMF Griffiths (Issue B and dated 6 February 2025) to meet the requirements under Section 3.2 of the Sustainable Buildings SEPP 2022;
- c) the development shall be designed and constructed to ensure the

embodied emissions attributable to the project capture no less than 80% of material costs for the structure, envelope, and external works; and

- d) provision for end of trip facilities, such as bike racks, storage, shower and changing facilities.

During Works

General

- 33) Work for this development shall be limited to the following hours to prevent unreasonable disturbance to the amenity of the area:
 - a) Monday to Friday: 7.00am to 5.00pm;
 - b) Saturday: 8.00am to 1.00pm if audible on other residential premises, otherwise 7.00am to 5.00pm; and
 - c) no work to be carried out on Sunday or Public Holidays if it is audible on other residential premises.
- 34) The developer shall be responsible to instruct and control all contractors regarding the hours of work. Council will exercise its powers under the Protection of the Environment Operations Act 1997, in the event that the building operations cause noise to emanate from the property on Sundays or Public Holidays or otherwise than between the hours detailed above.
- 35) Erosion and sediment control measures in accordance with the approved ESCP are to be maintained by the developer at all times.
- 36) The approved Traffic Management Plan (inclusive of any resultant Pedestrian Management Plans) and the (TGS's) shall be implemented and any associated barriers, signage and controls shall be maintained in a functional state at all times.
- 37) The footpath and/or road reserve shall not be used for construction purposes or placing of building materials or construction fencing without prior written approval from Council. Approval will only be considered in extreme or highly constrained circumstances.
- 38) Any damage caused to Council infrastructure in, on or under the road reserve as a result of works undertaken for the development site shall be rectified by the developer to the satisfaction of Council so as to ensure the integrity of Council's infrastructure.
- 39) Any spillage of materials onto Council infrastructure, as a result of delivery or handling for this development, must be removed as soon as practicable by the developer and placed into suitable receptacles for reclamation or disposal in a manner that does not cause pollution of the environment.
- 40) The developer shall ensure that dust suppression is undertaken to ensure there is no visible dust emitted due to any works associated with the works associated with the development. This can be in the form of constant water spraying or other natural based proprietary dust suppressant, to ensure that dust caused by any vehicles moving in, out or within the development site does not cause a nuisance to surrounding properties.

Stormwater

- 41) All roof water stormwater discharging from the proposed development site, buildings and works must be conveyed to the approved point of discharge by underground pipe drains complying with AS3500.3 (as amended) to the satisfaction of Council. No effluent or polluted water of any type may be allowed

to enter the Council's stormwater drainage system.

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

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

Parking

- 45) On-site parking accommodation shall be provided for a minimum of 312 vehicles, to ensure the provision of adequate on-site parking facilities commensurate with the demand likely to be generated by the proposed development. Such parking must be set out generally in accordance with the details indicated on the submitted plans, except as otherwise stated by the conditions of this consent. Additionally, the carpark shall include provision for electronic vehicle charges, if required under the NCC.
- 46) All internal driveways, parking areas, loading bays, vehicle turning areas and barriers are to be designed and constructed to comply with Australian Standard (AS) AS/NZS 2890.1 (as amended) Parking Facilities – Off-street parking and AS 2890.6 (as amended) Parking Facilities – Off-street parking for people with disabilities.
- 47) A minimum of 20 on-site bicycle parking spaces shall be provided for the development. The location, design and construction of bicycle facilities shall comply with AS2890.3 – Parking Facilities – Bicycle Parking.
- 48) All internal driveways and parking areas and manoeuvring areas are to be constructed with a base course of adequate depth to accommodate heavy vehicle loading, being sealed with either asphaltic concrete, concrete or interlocking pavers.
- 49) To provide for the safety and security of employees and users of the facility, outdoor lighting in accordance with AS1158.3.1 Pedestrian Area (Category P) Lighting shall be provided to all off-street parking areas. The lighting installed must comply with AS4282 Control of Obtrusive Effects of Outdoor Lighting.
- 50) Pedestrian access generally in accordance with drawings provided with the

Development Application shall be provided and shall comply with the requirements of AS1428.1-2009 Design for Access Mobility.

Street Lighting

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

Allotment Filling

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

Contamination

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

Heritage

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

In this condition:

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

habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

Inspections

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

Electricity Infrastructure

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

Bushfire

- 60) Landscaping within the required Asset Protection Zone must comply with Appendix 4 of Planning for Bushfire Protection 2019.
- 61) Property access roads and utilities (i.e. water, gas, and electricity) for the development must comply with Table 7.4a of 'Planning for Bushfire Protection'.

Prior to Issue of an Occupation Certificate

- 62) The occupation or use of the whole or any part of a new building must not commence unless an Occupation Certificate has been issued in relation to the building or part.
- 63) The occupation or use of the whole or any part of a new building shall not commence unless a Section 68 certificate of completion has been issued by Council. The certificate of completion shall not be issued until such time as all relevant conditions of the Section 68 approval have been complied with and all applicable documents received by Council.
- 64) Full width road construction that satisfies the Minimum Standards for Roads of Council's current version of the Engineering Design Minimum Standards for Subdivisions and Developments, Austroads Guide to Road Design and Transport for NSW supplements, is required for the full frontage of the development site prior to the issue of an Occupation Certificate.

- 65) Prior to the issue of an Occupation Certificate, the intersection between Goonoo Goonoo Road and Craigends Lane shall be upgraded in accordance with condition 17 of the subject consent, and the pedestrian access works shall be completed in accordance with condition 18 of the subject consent.
The proponent must obtain consent under Section 138 of the Roads Act 1993 from Transport for NSW (TfNSW) for all works within the classified State road (Goonoo Goonoo Road) reserve in the form of a Works Authorisation Deed (WAD).

Advisory Notes:

- a) TfNSW will exercise the functions of the Road Authority in accordance with Section 64 of the Roads Act for any application made under Section 138 of the Roads Act, relating to works on Goonoo Goonoo Road (New England Highway).
- b) The proponent is advised that the Conditions of Consent do not guarantee TfNSW final consent to the specific road work, traffic controls facilities and/or other structures or works, for which it is responsible, on the road network. TfNSW must provide a final consent for each specific change to

- the classified State road network prior to the commencement of any work.
- c) The WAD process, including acceptance of design documentation and construction, can take time. The proponent should be aware of this and allow sufficient lead time within the project development program to accommodate this process. It is suggested that the proponent work through this process as soon as possible with TfNSW.
- d) In accordance with regulatory requirements, a plan of the intersection upgrade shall be submitted to the Local Traffic Committee for comment and acceptance prior to issue of a Subdivision Works Certificate.
- e) Any landscaping shall be shown on the design drawings and included in the landscaping plans. Any proposed landscaping shall be designed such that it does not interfere with the design sight distances of the intersection in accordance with the relevant Austroads guidelines.
- f) Pursuant to normal engineering practice and the requirements of the various utilities providers, the design shall make provision for protection and / or relocation of all utility services, including optic fibre.

65A) The pedestrian access requirements, as outlined in Condition 18, must be completed prior to an Occupation Certificate.

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

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

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

68) For developments where allotment filling has been undertaken, a copy of the NATA testing authority certification for compliance to the requirements of AS2870.1 (as amended) – Residential Slabs and Footings – Construction shall be provided to the Principal Certifier prior to the issue of an Occupation Certificate.

69) Easements for utilities and services, in favour of the lots benefiting and/or Council shall be provided where services are located on private properties and/or overland flows traverse private property, in accordance with the current

version of Council's Engineering Design Minimum Standards for Subdivisions and Developments.

70) Prior to the issue of an Occupation Certificate, a 3m wide 100mm thick boundary line non-slip reinforced concrete shared footpath complete with pram ramps and jointed in accordance with Council's Standard Drawing Suite shall be constructed the entire length of the southern and western street frontages of the development site. The works are to be completed at full cost to the developer.

71) To ensure that the required Fire Safety Measures are provided in accordance with the building's use and operating in accordance with the appropriate standards, the owner of the building must cause a copy of a Final or Interim Fire Safety Certificate to be given to the person issuing the Occupation Certificate in accordance with Clause 84 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 for each measure listed in the fire safety schedule. The certificate must only be in the form specified by Clause 86 of the Regulation. A copy of the certificate is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building. Email address for lodgement of Fire Safety Certificate is - firesafety@fire.nsw.gov.au

72) Prior to the issue of an Occupation Certificate, an Identification Survey prepared by a Registered Surveyor shall be provided to the Certifier to confirm that the development has been sited in accordance with the approved plans.

73) Prior to the issue of an Occupation Certificate, the Principal Certifier must be satisfied that all landscaping within the development site and the adjoining Lot 1820 in DP 1122162 has been completed in accordance with the approved plans.

74) Prior to issue of any Occupation Certificate, evidence from NSW Land Registry Services shall be submitted to Council confirming that the Restriction on the Use of Land relating to an existing building envelope affecting Lot 1 in DP 1304039 has been removed.

75) Prior to issue of any Occupation Certificate, evidence shall be submitted to Council confirming that proposed Lot 201, 202 and Part Lot 203 in the plan of subdivision of Lot 1 in DP 1304039, has legally been created by the registration of subdivision plan(s) under DA2023-0308 or as modified, with NSW Land Registry Services. In addition, the allotments shall be consolidated into a single allotment.

76) Prior to the issue of an Occupation Certificate, evidence must be provided to the Certifier to confirm that the Crime Prevention Through Environmental Design (CPTED) recommendations contained in the Statement of Environmental Effects (prepared by Barr Planning and dated 12 February 2025) have been implemented for the development.

77) Prior to the issue of an Occupation Certificate, certification shall be provided by a suitably qualified person and submitted to the Certifier to confirm that the onsite lighting complies with AS/NZS 1158.3 Pedestrian Area (Category P) Lighting and AS4282 Control of Obtrusive Effects of Outdoor Lighting.

78) Prior to the issue of an Occupation Certificate, a Bush Fire Emergency Management and Evacuation Plan must be prepared and be consistent with the NSW RFS document: A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan and Australian Standard AS 3745:2010 Planning for emergencies in facilities.

79) Prior to the issue of an Occupation Certificate, an Operational Management

Plan (OMP) must be prepared for the day-to-day operations of the site and submitted to Council's Director of Liveable Communities for approval. The OMP must include, but is not limited to, the following matters:

- a) day to day operations;
- b) security and safety plan;
- c) landscaping maintenance;
- d) traffic and parking management plan that encompasses:
 - (i) the timing of deliveries to the site to ensure that there is no conflict between customer and delivery vehicles; and
 - (ii) a review process of the layout and operation of the carpark, should Council or the owner receive any valid complaints regarding its operation;
- e) details of complaints and resolution process; and
- f) bushfire emergency management and evacuation.

80) All works as required by these conditions of consent shall be completed.

Post-Occupation Review - Traffic and Pedestrian Survey

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

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

Ongoing Use

- 82) The sealing and ongoing operation to all crossovers, vehicular parking, manoeuvring and loading areas with the site shall be maintained at all times. Council is not responsible for the effective operation of a carpark on private property.
- 83) The largest vehicle permitted to access the site is a 20m articulated vehicle.
- 84) The landscaped areas of the development site shall be maintained at all times in accordance with the approved landscaping plan. Any vegetation within the easement of the 66kv overhead infrastructure must not exceed 4m in height when mature.
- 85) Vehicles shall be loaded or unloaded, standing wholly within the development site and within loading zones designated on the submitted plans with the development application, or as otherwise provided in accordance with the conditions of this consent, to ensure that the proposed development does not give rise to street loading or unloading operations with consequential accident potential and reduction in road efficiency. Under no circumstances are vehicles to be loaded or unloaded at the kerb side or across the public footpath.
- 86) All vehicle movements into and out of the development site shall be in a forward direction.
- 87) To ensure that the required parking, loading/unloading facilities and associated driveways are able to function efficiently for their intended purpose, proposed

parking areas, service bays, truck docks, driveways, vehicular ramps and turning areas shall be maintained clear of obstruction and be used exclusively for their intended purpose. Under no circumstances are such areas to be used for the storage of goods or waste material.

- 88) The on-site stormwater systems shall be maintained at all times so as to ensure their effective operation for their intended purpose.
- 89) The operation of this development must not produce noise levels greater than 5dB(A) above background levels (when measured as an LAeq(15 min) at the most affected point on or within the property boundary of any residential receptor).
- 90) The Applicant shall ensure that all activities associated with the operation business are conducted in accordance with Section 120 of Protection of the Environment Operations Act 1997. Wastewater must not be allowed to drain to stormwater drains, street gutters or any waterway (even when washing with water only). All washing and cleaning should be carried out within a wash bay that is either connected to the sewer under a trade waste agreement or fitted with a water treatment and recycling system.
- 91) All signage shall be maintained in good structural condition, kept clean, neatly painted and be of a professional standard of design and appearance. Should any signage become redundant, such signage shall be removed immediately.
- 92) The signage approved by this consent must comply with the following requirements:
 - a) the signage is for the purpose of business identification signage and building identification signage, as defined under the Tamworth Regional Local Environmental Plan 2010;
 - b) images must not be capable of being mistaken for a prescribed traffic control device and/or text providing driving instructions to drivers; and
 - c) luminance levels must comply with ambient environmental lighting requirements under Section 3 of the Department of Planning and Environment's Transport Corridor Outdoor Advertising and Signage Guidelines.
- 93) At the commencement of building works and in perpetuity, the area around the buildings to the property boundaries shall be managed as an Asset Protection Zone in accordance with the requirements of Appendix 4 of 'Planning for Bushfire Protection 2019'.
- 94) The Bushfire Emergency Management and Evacuation Plan shall be adhered to at all times.
- 95) The approved hours of operation for the development are as follows:
 - (i) Specialised retail premises (Tenancy 1 and Tenancy 2/LRF 1 and LFR 2):
 - Monday to Friday: 7:00am to 9:00pm
 - Saturdays: 8:00am to 8:00pm
 - Sundays: 8:30am to 8:00pm
 - (ii) Shop (Tenancy 3):
 - Monday to Sunday: 8:30am to 8pm
 - (iii) Shop (Tenancy 4):
 - Monday, Tuesday, Wednesday and Friday: 9am to 5:30pm

- Thursday: 9am to 7pm
- Saturday: 9am to 5pm
- Sunday: 10am to 5pm.

Advisory Note(s)

- (i) Clause 89 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, requires the owner of a building to which an essential fire safety measure is applicable to maintain each essential fire safety measure as identified by virtue of a fire safety schedule, to a standard no less than that specified in the schedule inclusive of the entire building.
- (ii) Within each 12 months after completion of the building, the owner of the building must cause Council to be given an annual fire safety statement in accordance with Clause 89 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, for each measure listed in the schedule for the entire building. The statement must only be in the form specified by Clause 92 of the Regulation. A copy of the statement is to be given to the Commissioner of the New South Wales Fire Brigade. Email address for lodgement of Annual Fire Safety Statement – Annual Fire Safety Statement Form - Fire and Rescue NSW and a copy must be submitted to Council development@tamworth.nsw.gov.au
- (iii) At all times, a copy of the Fire Safety Schedule and Fire Safety Certificate must be prominently displayed in the buildings.
- (iv) Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
- (v) It is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets. Information relating to developments near electrical infrastructure is available on Essential Energy's website: Development Applications (essentialenergy.com.au).
- (vi) A distance of 15.0m from the nearest part of the development to Essential Energy's 66kv overhead infrastructure (measured horizontally) is required to ensure that there is no safety risk. No significant structures including the proposed shade sails over the car parking spaces are to be constructed within the 66kv powerline easement.

COUncillors WHO VOTED FOR
THE DECISION

1. Cr Ryan Brooke
2. Cr Jeffrey Budd
3. Cr Charles Impey
4. Cr Brendon North
5. Cr Mark Rodda
6. Cr Matthew Sharpham
7. Cr Marc Sutherland
8. Cr Russell Webb, Deputy Mayor

COUncillors WHO VOTED AGAINST
THE DECISION

Nil

82/25 **RESOLVED**

8 INFRASTRUCTURE AND SERVICES

Nil

9 GOVERNANCE, STRATEGY AND FINANCE

Nil

10 COMMUNITY SERVICES

Nil

11 REPORTS TO BE CONSIDERED IN CLOSED COUNCIL

At 5:46pm, 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 Sutherland/Cr Budd

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.

OUNCILLORS WHO VOTED FOR THE DECISION	OUNCILLORS WHO VOTED AGAINST THE DECISION
1. Cr Ryan Brooke 2. Cr Jeffrey Budd 3. Cr Charles Impey 4. Cr Brendon North 5. Cr Mark Rodda 6. Cr Matthew Sharpham 7. Cr Marc Sutherland 8. Cr Russell Webb	Nil

83/25 RESOLVED

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

DIRECTORATE: OFFICE OF THE GENERAL MANAGER

AUTHOR: Nicholas Hawkins, Commercial Property Officer

Reference: Item 8.11 to Ordinary Council 12 August 2014 - Minute No. 213/14

Item 13.4 to Ordinary Council 28 October 2014 - Minute No. 345/14

Item 8.5 to Ordinary Council 25 August 2015 - Minute No. 212/15

Item 15.2 to Ordinary Council 23 August 2016 - Minute No. 257/16

Item 14.1 to Ordinary Council 22 November 2016 - Minute No. 372/16
Item 15.2 to Ordinary Council 23 May 2017 - Minute No. 156/17
Item 7.3 to Ordinary Council 9 June 2020 - Minute No. 160/20
Item 12.4 to Ordinary Council 1 December 2020 - Minute No 383/20

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

Cr Brendon North left the Chamber at 5.47pm.

12 CLOSED COUNCIL REPORTS

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

DIRECTORATE:
AUTHOR:

Reference:

OFFICE OF THE GENERAL MANAGER
Nicholas Hawkins, Commercial Property Officer

Item 8.11 to Ordinary Council 12 August 2014 - Minute No. 213/14
Item 13.4 to Ordinary Council 28 October 2014 - Minute No. 345/14
Item 8.5 to Ordinary Council 25 August 2015 - Minute No. 212/15
Item 15.2 to Ordinary Council 23 August 2016 - Minute No. 257/16
Item 14.1 to Ordinary Council 22 November 2016 - Minute No. 372/16
Item 15.2 to Ordinary Council 23 May 2017 - Minute No. 156/17
Item 7.3 to Ordinary Council 9 June 2020 - Minute No. 160/20
Item 12.4 to Ordinary Council 1 December 2020 - Minute No 383/20

MOTION

Moved Cr Budd/Cr Sutherland

That in relation to the report “Request to Transfer Lease of Hopscotch Cafe and Restaurant - Part Lot 73 Deposited Plan 1107041”, Council:

- (i) authorise the Mayor and General Manager to negotiate and enter into a Deed of Assignment of Lease of the building known as Hopscotch Café and Restaurant

located on part Lot 73 in Deposited Plan 1107041; and

(ii) authorise the affixing of the Seal of Council to any Deed of Assignment of Lease, Transfer of Lease or any other associated document required to give effect to Council's Resolution.

COUNCILLORS WHO VOTED FOR THE DECISION	COUNCILLORS WHO VOTED AGAINST THE DECISION
1. Cr Ryan Brooke 2. Cr Jeffrey Budd 3. Cr Charles Impey 4. Cr Brendon North 5. Cr Mark Rodda 6. Cr Matthew Sharpham 7. Cr Marc Sutherland 8. Cr Russell Webb	Nil

84/25 RESOLVED

13 RESOLUTIONS PASSED IN CLOSED COUNCIL

MOTION

Moved Cr Budd/Cr Sutherland

That Council move into Open Council.

85/25 RESOLVED

Cr North returned to the Chamber at 5:49pm.

At 5:49pm 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 5:51pm.

Cr Russell Webb, Chairperson

Tuesday, 29 April 2025

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